UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re DIREXION SHARES ETF TRUST	Civil Action No. 1:09-CV-08011-RJH

FIRST CONSOLIDATED AMENDED CLASS ACTION COMPLAINT

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Lead Plaintiffs Evan Stoopler and Howard Schwack and Plaintiffs David Remmels and Michael Salach (collectively "Plaintiffs"), individually and on behalf of all others similarly situated, by their attorneys, allege the following, based on counsels' investigation, documents filed with the United States Government and Securities and Exchange Commission (the "SEC"), and information obtained by Plaintiffs.

I. INTRODUCTION AND SUMMARY OF FACTUAL ALLEGATIONS

1. Beginning on September 17, 2008 and throughout the Class Period ending April 9, 2009, Defendants offered and solicited investment by the general public, including retail investors, in their non-traditional triple leveraged exchanged-traded funds (hereinafter "Direxion ETFs") consisting of a series of exchange-traded funds, including the **Financial Bear 3X Shares "FAZ", Energy Bear 3X Shares "ERY", Large Cap Bear 3X "BGZ" and Small Cap Bear 3X Shares "TZA"**. These funds were and are regulated by the SEC under the Investment Company Act of 1940 (the "1940 Act"). Direxion designed these new securities products to offer triple leverage to the investing public; Defendants knew these products were the first of their kind to offer triple leverage. Defendants designed Direxion ETFs to track a particular stock index and trade like stocks. These Funds, Direxion's non-traditional, "triple leveraged" and/or "inverse" ETFs which Direxion called "Bull Funds" or "Bear Funds," exploded in popularity to the general investment in a public, as they purportedly offered investors alternative investment vehicles to take bullish or bearish and leveraged positions on popular stock indices. Defendants' non-traditional leveraged ETFs attracted billions of dollars of investor assets.

2. Defendants designed each Direxion ETF to provide investment results that correspond to the performance of a particular benchmark index. Funds with the word "Bull" in their name (collectively, the "Bull Funds") attempt to provide investment results that correlate ***positively*** to the return of an benchmark index, meaning the Bull Funds attempt to move in the same direction as the target benchmark index. Funds with the word "Bear" in their name (collectively, the "Bear Funds"), such as the FAZ, ERY, BGZ and TZA Funds, attempt to provide investor results that correlate ***negatively*** to the return of an benchmark index, meaning that the Bear Funds attempt to move in the opposite or inverse direction of the target benchmark index.

3. Defendants touted their Direxion Bear Funds (hereinafter "Direxion Bear Funds") as directly correlating to the ***inverse*** of a ***multiple*** of the returns of the target index or benchmark. For example, the benchmark for the Direxion Financial ***Bear*** 3X Shares is 300% of the inverse, or ***opposite***, of the daily price performance of the Russell 1000 Financial Services Index. If the Russell 1000 Financial Services Index gains 1%, the Financial Bear 3X Shares ("Direxion FAZ") is designed to ***lose*** approximately 3%. Conversely, if the Russell 1000 Financial Services Index loses 1%, Defendants' Financial ***Bear*** 3X Shares is designed to ***gain*** approximately 3%.

4. This action involves Direxion's Bear Funds, which include the Financial Bear 3X Shares ("FAZ Fund"), Energy Bear 3X Shares ("ERY Fund"), Large Cap Bear 3X Shares "(BGZ Fund") and Small Cap Bear 3X Shares ("TZA Fund") (hereinafter collectively "Bear Funds"). Defendants offered Direxion's Bear Funds as a way for investors to seek profit when markets declined and as a hedge against market declines.

5. Defendants' repeated statements that the Direxion Bear Funds seek daily investment results equal to three times the inverse of their underlying benchmarks and their

representations concerning "daily investment results" were false and misleading to investors because the ***actual daily results*** earned by the Funds substantially underperformed their target and failed to track their underlying benchmarks. In fact, the returns earned by the Direxion Bear Funds were systematically lower than the expected daily investment results described in the Prospectus.

6. To illustrate this systematic daily under-performance, a "Target Return" was calculated for each trading day by multiplying the inverse of the daily index return by 300% (or by -3), since all Direxion Bear Funds were targeted to earn three times the inverse of the benchmark every day. Comparing the Target Returns to actual realized daily returns for the FAZ Fund through April 9, 2009, for example, the ***actual*** realized daily returns were approximately 239 basis points ***below*** the Target Returns each day.

7. Thus, even if investors had made daily purchase decisions, the ***actual*** daily return in the FAZ Fund was 2.39% ***below*** what investors reasonably expected they would receive.

8. Comparing the Target Returns to actual realized daily returns for the ERY Fund through April 9, 2009, the ***actual*** realized daily returns were approximately 90 basis points ***below*** the Target Returns each day.

9. Thus, even if investors had made daily purchase decisions, the actual daily return in the ERY Fund was 0.9% ***below*** what investors reasonably expected they would receive.

10. As another example, comparing the Target Returns to actual realized daily returns for the BGZ Fund through April 9, 2009, the ***actual*** realized daily returns were approximately 59 basis points ***below*** the Target Returns each day.

11. Thus, even if investors had made daily purchase decisions, the actual daily return in the BGZ Fund was approximately 0.6% ***below*** what investors reasonably expected they would receive.

12. Finally, comparing the Target Returns to actual realized daily returns for the TZA Fund through April 9, 2009, the ***actual*** realized daily returns were approximately 88 basis points ***below*** the Target Returns each day.

13. Thus, even if investors had made daily purchase decisions, the actual daily return in TZA Fund was 0.9% ***below*** what investors reasonably expected they would receive.

14. Despite the persistence of this significant deviation from expected results, Defendants did not disclose in the Prospectus that, even on a ***daily*** basis, the Direxion Bear Funds substantially underperformed their intended investment results.

15. In designing and operating its Direxion triple leveraged Bear Funds, the Direxion Defendants have acknowledged that Direxion "does not use fundamental securities analysis to accomplish [the Funds'] objectives." Rather, Defendant Rafferty Asset Management, LLC ("Rafferty" or "Advisor"), the investment advisor to the Direxion Funds, "primarily uses statistical and quantitative analysis to determine the investments each Direxion triple leveraged Fund makes and the techniques it employs. As a consequence, if a Direxion Fund is performing as designed, the return of the index or benchmark will dictate the return for that Fund."

16. The Defendants touted the FAZ Fund to be able to deliver triple the inverse return of the Russell 1000 Financial Services Index ("RGUSFL") which fell approximately 12.6% from December 9, 2008 through April 9, 2009, ostensibly generating a profit to investors who anticipated a decline in the U.S. financial services market. In other words, the FAZ Fund should have appreciated by approximately 37% (3X or 300% the inverse of the decline in the RGUSFL)

during this period. However, the FAZ Fund actually fell approximately 12% during this period resulting in catastrophic losses for investors instead of generating a positive return of 37%, the antithesis of a directional play.[1] During the period November 19, 2008 through April 9, 2009 the RGUSFL gained approximately 6.7%. In other words the Defendants' FAZ Fund should have lost approximately 20% of its value during this period. However, the Defendants' FAZ Fund actually fell approximately 92% during this period. Underscoring just how dysfunctional Direxion Shares' Funds actually are, during this same period Direxion Shares' Financial Bull 3X Shares (the "FAS Fund") which also tracks the Russell 1000 Financial Services Index, but whose investment objective is the exact opposite of the FAZ Fund, also was down 58%. During the six month period ending April 30, 2009 the Russell 1000 Financial Services Index was down approximately 23%, yet both the FAZ and FAS Funds were down approximately 86% during this period.

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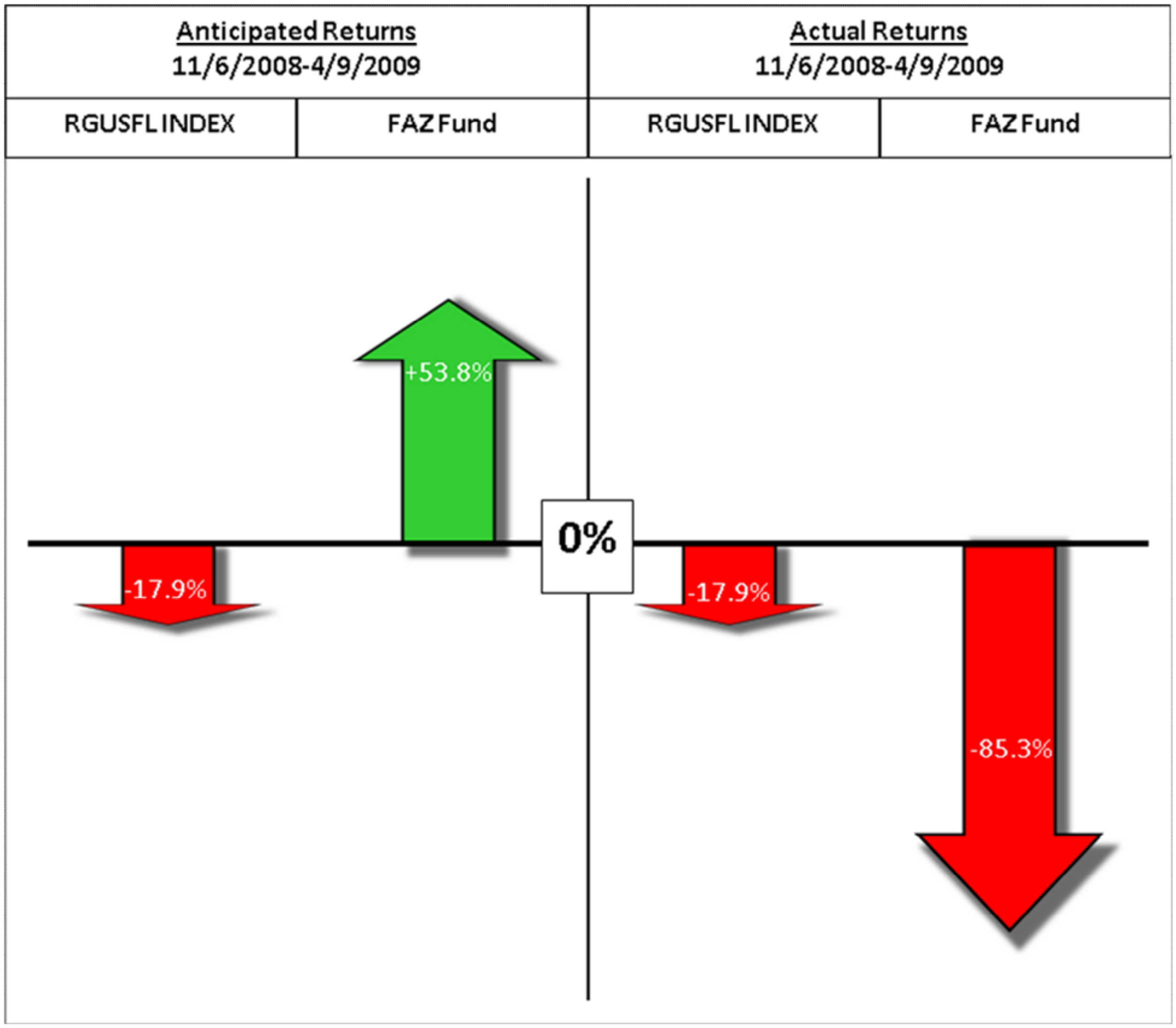
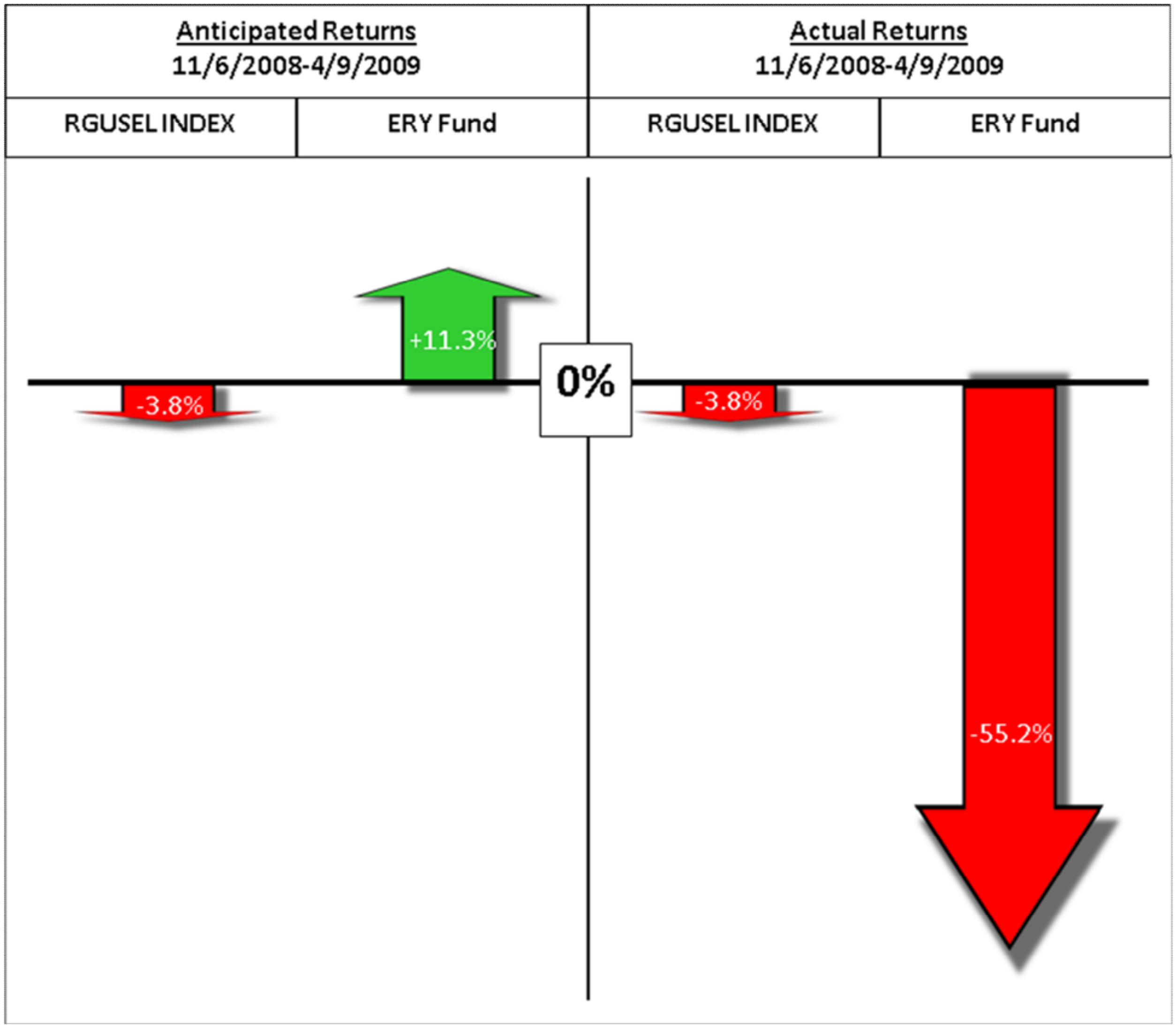
[1] Investopedia.com explains directional trading as follows: "Simple investing. If you think a security is going up, you buy, if you think the security is going down, you sell. This is directional trading, no complicated strategies." Direxion named its leveraged funds, to be pronounced "DIRECTION").

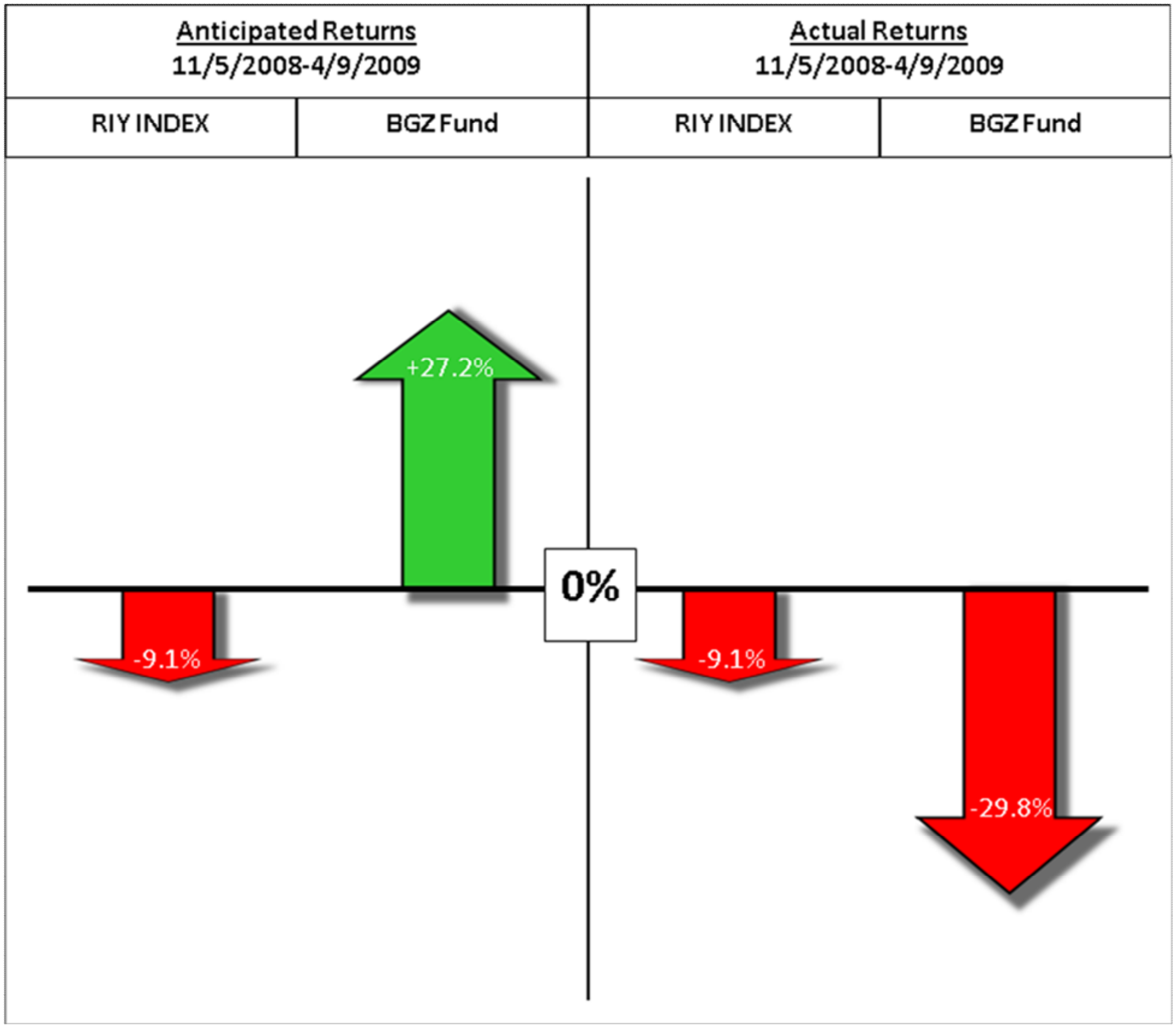
17. For example, the RGUSFL Index, which is tracked by the FAZ Fund, fell from 703.19 on November 6, 2008 to 577.1 on April 9, 2009, a decline of 17.9%. But the FAZ Fund experienced, not a 53.8% gain, but a decline of 85.3%.


Anticipated Returns
11/6/2008-4/9/2009
Actual Returns
11/6/2008-4/9/2009
RGUSFL INDEX
FAZ Fund
RGUSFL INDEX
FAZ Fund
+53.8%
-17.9%
0%
-17.9%
-85.3%

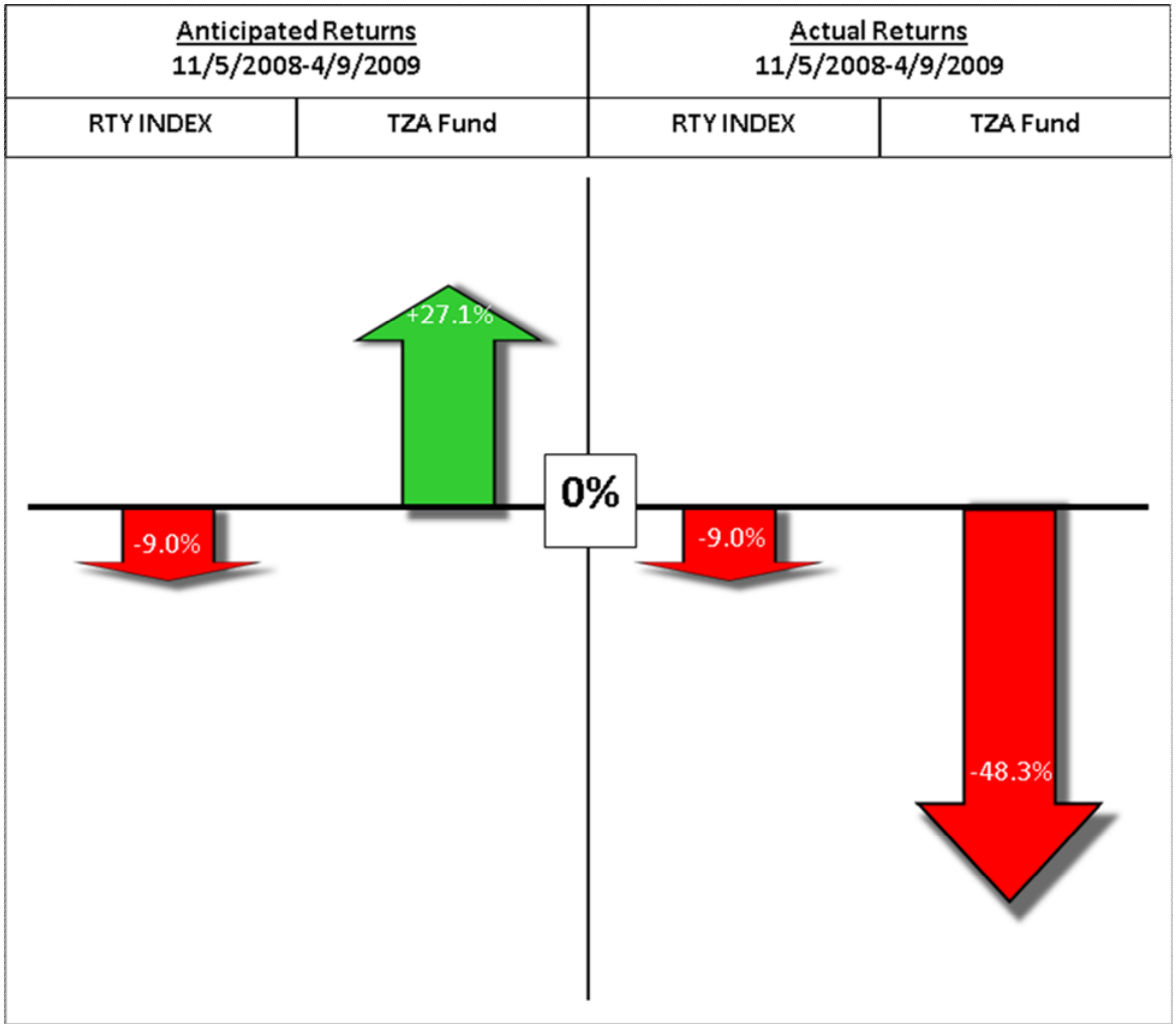
18. The Defendants touted the ERY Fund to be able to deliver triple the inverse return of the Russell 1000 Energy Index ("RGUSEL"). However, the RGUSEL Index fell from 549.78 on November 6, 2008 to 529.16 on April 9, 2009, a decline of 3.8%. But the ERY Fund experienced, not a 11.3% gain, but a decline of 55.2%.


Anticipated Returns
11/6/2008-4/9/2009
Actual Returns
11/6/2008-4/9/2009
RGUSEL INDEX
ERY Fund
RGUSEL INDEX
ERY Fund
-3.8%
+11.3%
0%
-3.8%
-55.2%

19. The Defendants touted the BGZ Fund to be able to deliver triple the inverse return of the Russell 1000 Index ("RIY"). However, the RIY Index fell from 513.27 on November 5, 2008 to 466.68 on April 9, 2009, a decline of 9.1%. But the BGZ Fund experienced, not a 27.2% gain, but a decline of 29.8%.


Anticipated Returns
11/5/2008-4/9/2009
Actual Returns
11/5/2008-4/9/2009
RIY INDEX
BGZ Fund
RIY INDEX
BGZ Fund
+27.2%
0%
-9.1%
-9.1%
-29.8%

20. The Defendants touted the TZA Fund to be able to deliver triple the inverse return of the Russell 2000 Index ("RTY"). However, the RTY Index fell from 514.64 on November 5, 2008 to 468.2 on April 9, 2009, a decline of 9.0%. But the TZA Fund experienced, not a 27.1% gain, but a decline of 48.3%.


Anticipated Returns
11/5/2008-4/9/2009
Actual Returns
11/5/2008-4/9/2009
RTY INDEX
TZA Fund
RTY INDEX
TZA Fund
+27.1%
0%
-9.0%
-9.0%
-48.3%

21. Given the spectacular tracking error, or divergence, of the performance of the Direxion Bear Funds, including the FAZ, ERY, BGZ and TZA Funds, and their benchmark

indices, the fact that Plaintiffs and the Class sought to protect their assets by investing their monies on the correct directional play was rendered meaningless. The Direxion Bear Funds, therefore, were and are defective securities products. The Direxion Bear Funds did not do what they were represented to do, advertised to do or what reasonable investors, including Plaintiffs, expected them to do and the Plaintiffs and class members lost billions of dollars from investing in them.

22. On September 29, 2008, Direxion Shares ETF Trust filed a Registration Statement with the Securities and Exchange Commission on Form N1-A, which included the FAZ, ERY, BGZ and TZA Funds.

23. In its Registration Statement dated September 29, 2008 and throughout the Class Period and after, Direxion failed to disclose critical material facts concerning the inherent risks of loss of its Bear ETF products. In fact, among other things, Defendants failed to disclose that the Bear Funds were not designed or suitable for most, if not all, retail investors and/or for investors who intended to hold positions in these Funds beyond a single trading session. Defendants failed to adequately and meaningfully disclose the extent of the risks of loss to investors who purchased shares in the Direxion Bear Funds and did not sell those shares during the same trading session in which they were purchased.

24. In fact the Bear Funds were ***not*** engineered to deliver three times the inverse of the performance of the underlying benchmark for holding periods longer than one day, and they did ***not*** deliver that performance over longer holding periods or for that matter even over the one day period for which they were engineered. However, the prospectuses and supplements did ***not*** disclose or adequately disclose, among other things: (a) that Bear Fund shares were at best one-

day investments; (b) that purchasers needed to make new investment decisions each day; or (c) the risk of loss that accompanied holding Bear Fund shares for longer than one day.

25. Defendants' repeated statement that its Bear Funds seek daily investment results is vague, ambiguous and misleading as it does not specify specifically what the objective results are. Moreover, in fact, the Defendants' representations concerning "daily investment results" were misleading to investors as the actual daily results underperformed their target and systematically failed to track the underlying index. The returns offered by the Defendants were systematically lower than the daily target returns. The actual daily returns underperformed their target returns.

26. This mathematical formula guaranteed that, in many market conditions, the Direxion Bear Funds would move in the opposite direction of what was expected and cause large losses to investors. This mathematical formula, if it had been disclosed, would have provided material and sum certain information to investors and/or their more sophisticated advisors to help investors to make informed decisions about whether to purchase the Funds' shares.

27. The prospectuses and supplements were obtuse and hyper-technical, and they did not convey in language capable of understanding by ordinary or even sophisticated investors or by market professionals who did not already know how the Bear Funds were designed, that Bear Fund shares were at best one-day investments, that purchasers needed to make new investment decisions each day, or the risk of loss that accompanied holding Bear Fund shares for longer than one day.

28. Members of the Class did not understand from the prospectuses or supplements that Bear Fund shares were at best one-day investments, that purchasers needed to make new investment decisions each day, the risk of loss that accompanied holding Bear Fund shares for

longer than one day, that the investments in the Bear Funds were typically unsuitable for retail investors and that the Funds would not achieve their objectives even over the one day.

29. In fact in June, 2009, FINRA issued a Regulatory Notice cautioning its members that "inverse and leveraged ETFs . . . typically are unsuitable ***for retail investors*** who plan to hold them for longer than one trading session, particularly in volatile markets." FINRA's Regulatory Notice would not have been necessary, and would not have been issued, if the prospectuses and supplements for ETFs (like the Bear Funds) adequately informed investors and brokers that the Bear Funds were at best one-day investments, that purchasers needed to make new investment decisions each day, and of the risk of loss that accompanied holding Bear Fund shares for longer than one day.

30. In July 2009, the Massachusetts Secretary of State commenced an investigation into leveraged ETFs. That investigation is ongoing.

31. On March 25, 2010, the SEC issued a press release, entitled "SEC Staff Evaluating the Use of Derivatives by Funds." In the press release, the SEC announced that its staff was conducting a review of the use of derivatives by ETFs – such as those used by the Bear Funds – to achieve their intended daily investment returns. According to the press release, as part of its review, the SEC staff "determined to defer consideration of exemptive requests under the Investment Company Act to permit ETFs that would make significant investments in derivatives."

32. According to the press release, the SEC staff is considering, among other things, whether "existing prospectus disclosures adequately address the particular risks created by derivatives."

33. An investigation of the adequacy of existing prospectus disclosures would not have been necessary, and the SEC staff would not be investigating the adequacy of the disclosures, if the existing prospectuses and supplements for ETFs (like the Bear Funds) adequately informed investors and brokers that the Bear Fund shares were one-day investments, that purchasers needed to make new investment decisions each day, of the extreme risk of loss that accompanied holding Bear Fund shares for longer than one day, and that the Bear Funds would not meet their objectives for even one day.

34. The undisclosed risks to Plaintiffs and Class Members caused them enormous losses (rather than the expected gains) from their correct judgments about the direction of prices.

35. Simply put, the Defendants had no legitimate reason not to disclose these mathematically definite risks in comprehensive detail since they were inherent in any investment in Defendants' leveraged Bear ETFs. By not disclosing the mathematical formulas, as well as specific and material risks inherent in investing in Direxion's leveraged Bear ETFs, Defendants provided a misleading mix of information in Defendants' Registration Statements filed with the Securities and Exchange Commission ("SEC") and prevented Plaintiffs and Class Members from making informed decisions about whether to purchase the Direxion Bear ETFs.

36. By virtue of Defendants' failure to disclose Direxion's mathematical formulae and the specific material risks inherent in investing in its leveraged Bear Funds, Defendants were able to rapidly grow their funds to more than $5 billion in net asset value outstanding during the Class Period.

37. In the face of concerted and extensive regulatory pressure and complaints from investors, which focused on the reality that investors were unable to meaningfully understand the inherent and complex nature of Defendants' Funds, as well as the risks and consequences of

holding an investment in a leveraged Bear Fund for any period longer than a day, Defendants dramatically and radically changed Direxion's Registration Statement beginning on April 10, 2009. Defendants began to, but did not completely, come clean and warn Plaintiffs and Class Members essentially that they should not purchase and hold positions in Defendants' Bear Funds from one trading session to the next and disclosed the potentially catastrophic consequences of same. Defendants warned that investors that "do not intend to manage the Funds on a ***daily*** basis should not buy the Funds."

38. Defendants also acknowledged on April 10, 2009 that it was their intent, although they had never clearly expressed the same in Direxion's Registration Statement prior to April 10, 2009, that Direxion's Funds, including the Bear Funds, should not be "used by, and are not appropriate for, investors who intend to hold positions."

39. On April 10, 2010, Defendants stated in "Bold Print" and on the "Cover" of Direxion's Prospectus, as supplemented on April 10, 2009, in relevant partial part as follows:

a. **"The Funds are no*t int*ended to be used by, and are not appropriate for, investors who intend to hold positions."**

b. **"[E]ach of the Bear Funds pursues investment goals which are inverse to the performance of its benchmark, a result opposite of most exchange-traded funds."**

c. **"The return of each Fund for periods longer then a single day, especially in periods of market volatility, may be completely uncorrelated to the return of the Fund's benchmark for such longer period."**

d. **"The Funds offered… are very different from most exchange-traded funds. First, all of the Funds pursue leveraged investment goals, which mean that the**

Funds are riskier than alternatives that do not use leverage because the Funds magnify the performance of the benchmark on an investment.”

e. **“The Funds should be utilized only by sophisticated investors who (a) understand the risks associated with the use of leverage, (b) understand the consequences of seeking daily leveraged investment results, (c) understand the risk of shorting; and (d) intend to actively monitor and manage their investments on a daily basis. Investors who do not understand the Funds or do not intend to manage the Funds on a daily basis should not buy the Funds.”**

f. **“The Funds are intended to be used as short-term trading vehicles for investors managing their portfolios on a daily basis.”**

40. Also, on April 10, 2009, Defendants radically changed the names of each of Direxion’s funds from those formerly titled Direxion Shares ETFs to “Direxion DAILY” Funds. For example, Defendants re-named its FAZ Fund, until April 9, 2009, named “Financial Bear 3X Shares,” to the **“Direxion Daily Financial Bear 3x Shares”** and the ERY Fund, formerly named Energy Bear 3X Shares, to the **“Direxion Daily Energy Bear 3x Shares.”** In fact, on April 10, 2009, for the first time, Defendants re-named each and every one of Direxion’s forty (40) exchange-traded Funds and added the word “Daily” in the title of each Fund on the cover of its April 10, 2009 Supplement.

41. Defendants’ belated partial disclosures, although materially incomplete, on April 10, 2009, shocked the Plaintiffs and Class Members, who had purchased Direxion Bear ETFs during the Class Period. It is patently obvious that the Defendants had a legal duty to prominently disclose ***all*** of these material and critical points at the time they first offered shares

in the Direxion Funds pursuant to Direxion's Registration Statement dated September 29, 2008 and prior to April 10, 2009.

42. Reasonable investors would have found Defendants' belated disclosures to be an important part of the mix of information available to them in making their decisions to purchase shares in the Direxion Bear Funds, had such information been made available to them during the Class Period.

43. This is empirically evident by the fact that following Direxion's April 9, 2009 disclosures, the average period in which investors held shares in Direxion Bear Funds declined significantly.

44. By then, however, it was far too late for Plaintiffs and Class Members who had already suffered damages in catastrophic amounts due to Defendants' insufficient disclosures.

45. The Defendants' catastrophically belated disclosures on April 10, 2009 showed that Defendants' Registration Statements that were filed and effective on September 29, 2008 and as amended throughout the Class Period ending April 9, 2009 were all misleading.

46. Defendants' omissions during the Class Period rendered virtually all of the statements contained in their Registration Statements materially untrue or misleading. This included the statements setting forth the persons who were suitable to purchase the Bear Funds; the very names of the Funds; the name "Direxion" (pronounced "Direction"); the descriptions of how the Funds performed; the descriptions of the inverse "correlation risks," "leverage risks," and "volatility risks;" the boilerplate risks concerning the Bear Funds; and all other descriptions of how Defendants' Bear Funds operate or would behave.

47. In fact, Defendants effectively admitted that their previous disclosures from September 29, 2008 through April 9, 2009, were misleading and that Defendants had failed prior

to April 10, 2009, to adequately and meaningfully explain to investors: (a) for whom Direxion Bear Funds were suitable; (b) under what specific circumstances the Direxion Bear Funds should be purchased; (c) under what circumstances the Direxion Bear Funds should be sold (*e.g.* in the full amount of the investors' position and on the same trading session day on which it was purchased); and (d) that shares in the Direxion Bear Funds should not be held in any amount for any longer than the same day on which they were purchased.

48. Plaintiffs bring this class action on behalf of all persons or entities that purchased or otherwise acquired shares in the Defendants' Bear Funds, including specifically the **Financial Bear 3X Shares "FAZ", Energy Bear 3X Shares "ERY", Large Cap Bear 3X "BGZ" and Small Cap Bull 3X Shares "TZA"** exchange traded funds, offered by Direxion Shares ETF Trust ("Direxion" or the "Trust"), pursuant or traceable to Direxion's materially false or misleading Registration Statement, Prospectus and Statement of Additional Information (collectively, the "Registration Statement") issued in connection with the Bear Fund's shares (the "Class") on or after November 3, 2008. The Class is seeking to pursue remedies under §§11 and 15 of the Securities Act of 1933 (the "Securities Act"). This action asserts strict liability and negligence claims against Defendants.

II. JURISDICTION AND VENUE

49. The claims asserted herein arise under and pursuant to Sections 11 and 15 of the Securities Act, 15 U.S.C. §§77k and 77o.

50. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §1331 and Section 22 of the Securities Act.

51. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), because many of the acts and practices complained of herein occurred in substantial part in this District, and the shares of the Bear Funds trade in this District on the New York Stock Exchange.

52. In connection with the acts alleged in this complaint, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the mails, interstate telephone communications and the facilities of the national securities markets.

III. PARTIES

53. Plaintiffs individually invested assets in FAZ, ERY, BGZ and TZA Funds and were damaged thereby, as detailed in the Investor Certifications in Exhibit “1” attached hereto.

54. Plaintiff Evan Stoopler purchased shares of the FAZ Fund and was damaged thereby as detailed in the Investor Certification attached hereto as Exhibit “1”.

55. Plaintiff David Remmells purchased shares of the FAZ Fund and was damaged thereby as detailed in the Investor Certification attached hereto as Exhibit “1”.

56. Plaintiff Howard Schwack purchased shares of the ERY Fund and was damaged thereby as detailed in the Investor Certification attached hereto as Exhibit “1”.

57. Plaintiff Michael Salach purchased shares of the BGZ Fund and was damaged thereby as detailed in the Investor Certification attached hereto as Exhibit “1”.

58. Defendant Direxion Shares ETF Trust is a Delaware statutory trust and a registered investment company offering a number of leveraged exchange-traded funds (ETFs), including the FAZ Fund, ERY Fund, BGZ Fund and TZA Fund, to the public. Shares of the FAZ Fund, ERY Fund, BGZ Fund and TZA Fund trade on the NYSE Arca. Unlike traditional mutual funds, shares are not individually redeemable securities. Rather, each Fund issues and redeems shares on a continuous basis at net asset value (“NAV”) only in large blocks of shares called “Creation Units.” Until December 15, 2008, a Creation Unit consisted of 100,000 shares. Thereafter, a Creation Unit consisted of 50,000 shares. Creation Units of the Bear Funds are purchased and redeemed for cash.

59. Defendant Daniel D. O'Neill is the President and a Trustee of Direxion. O'Neill signed the Registration Statements dated September 29, 2008 and December 17, 2008.

60. Defendant Todd Kellerman is the Treasurer and Controller of Direxion. Kellerman signed the Registration Statements dated September 29, 2008, as supplemented on December 9, 2008.

61. Defendant Daniel J. Byrne is a Trustee of Direxion Shares. Defendant Byrne signed the Registration Statements dated September 28, 2008 and December 17, 2008

62. Defendant Gerald E. Shanley, III is a Trustee of Direxion Shares. Defendant Shanley signed the Registration Statements dated September 28, 2008 and December 17, 2008.

63. Defendant John Weisser is a Trustee of Direxion Shares. Weisser signed the Registration Statements dated September 28, 2008 and December 17, 2008.

64. Defendant Rafferty Asset Management LLC ("Rafferty") is the investment advisor for the FAZ, ERY, BGZ and TZA Funds. Rafferty provides investment management services to the Bear Funds. Rafferty was responsible for developing, implementing, and supervising the Bear Fund's investment program. Defendant O'Neill is the Managing Director of Rafferty.

65. Defendant Foreside Financial Group, LLC located at Three Canal Plaza, Suite 100 in Portland, Maine is the distributor and principal underwriter for the Direxion Funds. Foreside was hired by Direxion to distribute shares of the Direxion Funds to broker/dealers and, ultimately, shareholders.

IV. CLASS ACTION ALLEGATIONS

66. Plaintiffs bring this action as a class action pursuant to Federal Rules of Civil Procedure 23(a) and (b)(3) on behalf of a class consisting of all persons or entities who acquired shares of the Defendants' Bear Funds, including specifically the FAZ, ERY, BGZ and TZA

Funds, pursuant or traceable to Direxion Shares' false and misleading Registration Statement on or about November 3, 2008, and were damaged thereby. Excluded from the Class are Defendants, the officers, directors and trustees of Direxion Shares, at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which Defendants have or had a controlling interest.

67. The members of the Class are so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown to Plaintiffs at this time and can only be ascertained through appropriate discovery, Plaintiffs believe that there are thousands of members in the proposed Class.

68. Plaintiffs' claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendants' wrongful conduct in violation of federal law that is complained of herein.

69. Plaintiffs will fairly and adequately protect the interests of the members of the Class and have retained counsel competent and experienced in class and securities litigation.

70. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

a. what are the true methods and risks involved in Defendants' operation of their Direxion Bear Funds, including the FAZ, ERY, BGZ and TZA Funds;

b. did Defendants adequately disclose the risks of loss of an investment made in Direxion Bear Funds;

c. whether Registration Statements filed by Defendants contained untrue statements or statements that were misleading because of Defendants' failure to disclose material facts;

d. whether Defendants failed to disclose material risks;

e. whether the Securities Act was violated by Defendants' failures to disclose the risks and the related facts as alleged herein;

f. whether control person liability for such violations is appropriate; and

g. to what extent the members of the Class have sustained damages and the proper measure of damages.

71. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

V. ADDITIONAL FACTUAL ALLEGATIONS

A. Traditional ETFs As Opposed to Direxion's Triple Leveraged Bear Funds

72. ETFs are investment companies that are legally classified as open-ended companies or unit investment trusts. ETFs are frequently considered low cost index mutual funds that trade like stocks. ETFs, however, differ from traditional mutual funds in the following ways:

- ETFs do not sell individual shares directly to investors and only issue shares in large blocks (of 50,000 shares, for example) that are known as "Creation Units";
- Investors generally do not purchase Creation Units with cash (although Creation Units in the FAZ Fund, ERY Fund, BGZ Fund and TZA Fund were and are purchased for cash);
- After purchasing a Creation Unit, an investor often splits it up and sells the individual shares on a secondary market. This permits other investors to purchase individual shares (instead of Creation units); and

- Investors who want to sell their ETF shares have two options: (1) they can sell individual shares to other investors in the secondary market, or (2) they can sell the Creation Units back to the ETF.

73. Traditional ETFs typically track an index, sector or commodity, and are considered to be mutual funds that trade like stocks.

74. In 1993, the American Stock Exchange launched the first traditional ETF, called the Spiders (or SPDR), which tracked the S&P 500 index.

75. Soon after, more traditional ETFs were introduced. For example, the Diamonds ETF, introduced in 1998, tracked the Dow Jones Industrial Average. The Cubes ETF, introduced in 1999, tracked the Nasdaq-100 index.

76. Unlike Direxion's new triple leveraged Bear ETFs, traditional exchange-traded funds do not pursue investment goals which are inverse to and/or triple the performance of their benchmark.

B. Direxion's Non-Traditional Leveraged Bear ETFs

77. Defendant Direxion's non-traditional, or triple leveraged inverse ETFs – sometimes referred to by Direxion as Bear ETFs – are new products that Defendants designed and offered to the general public to deliver returns three times the inverse or opposite of the performance of the index or benchmark they track. Defendants touted their inverse Bear ETFs as a way for investors to profit from, or at least hedge their exposure to, downward moving markets.

78. Defendants' non-traditional leveraged Bear Funds, such as Direxion's FAZ, ERY, BGZ and TZA Funds, are both short and leveraged, meaning that they seek to achieve a return that is a multiple of the inverse performance of the underlying index. Defendants' triple-

leveraged Bear FAZ ETF seeks to deliver three times (3x) the opposite of the Russell 1000 Financial Services Index's performance. Defendants' triple-leveraged Bear ERY ETF seeks to deliver three times (3x) the opposite of the Russell 1000 Energy Index's performance. Defendants triple-leveraged BGZ Bear ETF seeks to deliver three times (3x) the opposite of the Russell 1000 Index. Defendants triple-leveraged TZA Bear ETF seeks to deliver three times (3x) the opposite of Russell 2000 Index. To accomplish their objectives throughout the Class Period, Defendants leveraged and inverse Bear Funds pursued a range of complex investment strategies through the use of short sales, swaps, futures contracts and other derivative instruments. Defendants utterly failed to disclose the specific material facts and transactions concerning these investments to Plaintiffs and Class Members during the Class Period.

C. Direxion's Triple Leveraged ETFs Were Offered By Defendants Pursuant to False and Misleading Registration Statements

79. Beginning in 2008 and continuing until the present, Defendants created and operated an open-ended investment company under Section 8 of the Investment Company Act, 15 U.S.C. § 80a-8.

80. Open-ended investment companies are required, *inter alia*, to satisfy the registration requirements of the Securities Act of 1933 in order to sell securities to the public. Securities Act, 15 U.S.C. § 77j.

81. Direxion's Registration Statement for the FAZ, ERY, TZA and BGZ Funds, and certain other funds, became effective on September 17, 2008.

82. On September 29, 2008 Direxion filed a post effective Amended Registration Statement for the FAZ Fund, and certain other Funds, with the SEC, effective September 29, 2008, including a Prospectus which was filed with the SEC effective October 3, 2008 as supplemented on November 3, 2008, filed November 7, 2008, as supplemented on December 9,

2008. The Registration Statement was signed by Defendants O'Neill, Kellerman, Byrne, Shanley and Weiser. On December 17, 2008 Direxion Shares filed another post effective Amendment to its Registration Statement which became effective on February 15, 2009. The Registration Statement was signed by Defendants O'Neill, Byrne, Shanley and Weisser.

83. Plaintiffs and/or Class members purchased the shares of Direxion's Bear Funds traceable to the Direxion Registration Statements referred to above.

84. As further explained below Direxion's Registration Statement and Prospectuses for the FAZ, ERY, BGZ and TZA Funds failed to clearly explain the inherent complex nature of Direxion's new triple leveraged Bear Funds and to provide all essential information in a way that would help investors to make informed decisions about whether to purchase the Funds' shares.

85. In November 2008, Defendants launched their new Direxion triple leveraged Bear Funds, including the FAZ, ERY, BGZ and TZA Funds, which were purportedly designed by Defendants to **triple the inverse of the performance** of their underlying indices or benchmarks.

86. On November 3, 2008, Direxion issued a press release entitled "Direxion Launches Eight New Leveraged ETFs; innovative funds benchmarked to help advisors and investors seeking to outperform major Russell Indexes in Bull and Bear markets." Among those eight funds offered by Direxion were the FAZ, ERY, BGZ and TZA Funds. The Company's press release provided in part:

> Boston, MA – November 3, 2008 - Direxion, a pioneer in providing alternative investment strategies to sophisticated investors, today announced their entrance into the ETF space with the Direxion Shares 3X Exchange-Traded Funds, slated to begin trading Wednesday, November 5, 2008. The new ETFs are a group of leveraged Bull and Bear index funds that seek 300% of the daily performance, or 300% of the inverse of the daily performance (before fees and expenses) of the four distinct Russell indexes they benchmark. There is no guarantee that the funds will achieve their objective.
>
> The new Direxion Shares ETFs are designed to give investment advisors and sophisticated investors the ability to execute active trading strategies in all types

> of markets. **The funds deliver increased market exposure via 3 to 1 leverage, long and short of their respective indices and afford investors the opportunity to effectively allocate capital to seek improved risk-adjusted returns. Direxion Shares ETFs represent the highest amount of leverage, currently available in the ETF space. [**emphasis supplied]
>
> "These eight leveraged index Bull and Bear ETFs will give our investors the ability to achieve increased exposure to the diversified Russell 1000®, Russell 2000®, Russell 1000® Energy and Russell 1000® Financial Services Indexes — critical investment tools for navigating changing markets," said Dan O'Neill, Direxion Shares' President. **"We're thrilled to be the first to deliver portfolio solutions that track these dynamic Russell indexes using the power of leverage." [**emphasis supplied]
>
> ***
>
> **The ETF structure allows investors to benefit from the flexibility and low cost features of an exchange traded fund product, coupled with the leveraged investment solution experience that Direxion Funds is known for in the mutual fund industry.** [emphasis supplied]

87. On November 8, 2008, Direxion Shares issued a press release in which it announced:

> **"Our new leveraged Bull and Bear ETFs offer an unprecedented level of leverage in the ETF arena, something that today's dynamic investors are demanding," said Bill Franca, Direxion's Executive Vice President of Sales and Distribution. "Direxion Shares will give savvy investors the array of important investment options they have been seeking to actively capitalize on the volatility of today's markets."**

(emphasis supplied)

88. On or prior to November 19, 2008, the FAZ, ERY, BGZ and TZA Funds began trading on the NYSE Arca.

89. The November 3, 2008 Prospectus for the Bear Funds, filed with the SEC on November 7, 2008, among others, describes the Funds' investment techniques and policies in pertinent part as follows:

> Rafferty Asset Management, LLC ("Rafferty" or "Adviser"), the investment adviser to the Funds, uses a number of investment techniques in an effort to achieve the stated goal for each Fund…. The Bear Funds are managed to provide

returns inverse (or opposite) by a defined percentage to the return of each Bear Fund's index or benchmark for the relevant period. Rafferty creates… net "short" positions for the Bear Funds. (Rafferty may create short positions in the Bull Funds and long positions in the Bear Funds even though the net exposure in the Bull Funds will be long and the net exposure in the Bear Funds will be short.) Long positions move in the same direction as their index or benchmark, advancing when the index or benchmark advances and declining when the index or benchmark declines. **Short positions move in the opposite direction of the index or benchmark, advancing when the index or benchmark declines and declining when the index or benchmark advances. Rafferty generally does not use fundamental securities analysis to accomplish such correlation. Rather, Rafferty primarily uses statistical and quantitative analysis to determine the investments each Fund makes and the techniques it employs.** As a consequence, if a Fund is performing as designed, the return of the index or benchmark will dictate the return for that Fund….

A Fund generally will hold a representative sample of the securities in its benchmark index. The sampling of securities that is held by a Fund is intended to maintain high correlation with, and similar aggregate characteristics (e.g., market capitalization and industry weightings) to, the benchmark index. A Fund also may invest in securities that are not included in the index or may overweight or underweight certain components of the index.

Each Bull and Bear Fund is designed to provide daily investment returns, before fees and expenses, that are a multiple of the returns of its index or benchmark for the stated period. While Rafferty attempts to minimize any "tracking error" (the statistical measure of the difference between the investment results of a Fund and the performance of its index or benchmark), certain factors will tend to cause a Fund's investment results to vary from the stated objective. A Fund may have difficulty in achieving its daily target due to fees and expenses, high portfolio turnover, transaction costs and/or a temporary lack of liquidity in the markets for the securities held by the Fund. In addition, a Fund may have difficulty achieving its daily target if the Fund's target index moves dramatically in a direction adverse to the Fund and the Fund is unable to maintain its portfolio. This should not occur unless the daily movement of the target index is in excess of 25%.

***

The Projected Return of a Bear Fund. A Bear Fund seeks to provide a daily return which is a multiple of the inverse (or opposite) of the daily return of a target index or benchmark. To create the necessary exposure, a Bear Fund engages in short selling — borrowing and selling securities it does not own. The money that a Bear Fund receives from short sales — the short sale proceeds — is an asset of the Bear Fund that can generate income to help offset the Bear Fund's operating expenses. If the Russell 1000® Index declines 2% on a given day, the gross expected return for the Large Cap Bear 3X Shares would be 6% and the net expected return, which factors in interest income and the impact of operating expenses, will be slightly higher under normal market conditions.

The Projected Returns of Leveraged Index Funds for Periods Longer Than the Target Period. The Funds seek daily leveraged investment results which should not be equated with seeking a leveraged goal for longer than a day. For instance, if the Russell 1000® Index gains 10% during a year, the Large Cap Bull 3X Shares should not be expected to provide a return of 30% for the year even if it meets its daily target throughout the year. This is true because of the financing charges noted above but also because the pursuit of daily goals may result in daily leveraged compounding, which means that the return of an index over a period of time greater than one day multiplied by a Fund's daily target or inverse daily target (*e.g.*, 300% or -300%) will not generally equal a Fund's performance over that same period.

90. The Prospectus part of the Registration Statement contained a "Principal Risks" Section. Primarily with respect to leverage, compounding and volatility risks, the Prospectus made the following disclosures:

Correlation Risk

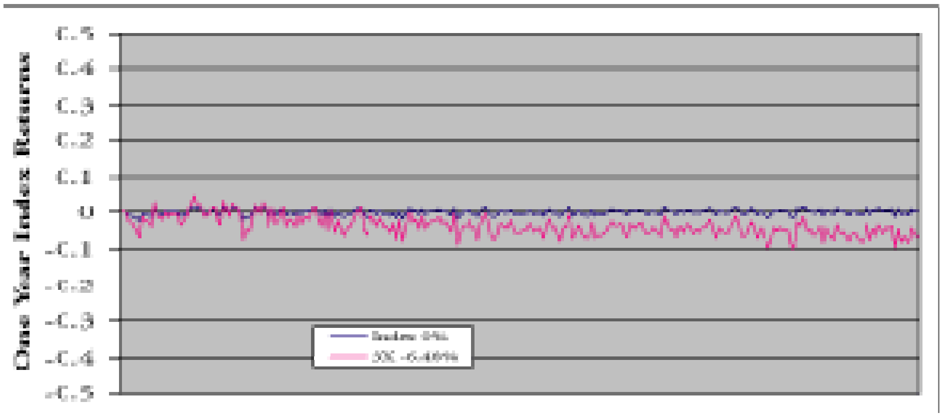
A number of factors may affect a Fund's ability to achieve a high degree of correlation with its benchmark, and there can be no guarantee that a Fund will achieve a high degree of correlation. A failure to achieve a high degree of correlation may prevent a Fund from achieving its investment objective. A number of factors may adversely affect a Fund's correlation with its benchmark, including fees, expenses, transaction costs, costs associated with the use of leveraged investment techniques, income items and accounting standards. A Fund may not have investment exposure to all securities in its underlying benchmark index, or its weighting of investment exposure to such stocks or industries may be different from that of the index. In addition, a Fund may invest in securities or financial instruments not included in the index underlying its benchmark. A Fund may be subject to large movements of assets into and out of the Fund, potentially resulting in the Fund being over- or under-exposed to its benchmark. Activities surrounding annual index reconstitutions and other index rebalancing or reconstitution events may hinder the Funds' ability to meet their daily investment objective on that day. Each Fund seeks to rebalance its portfolio daily to keep leverage consistent with each Fund's daily investment objective.

***

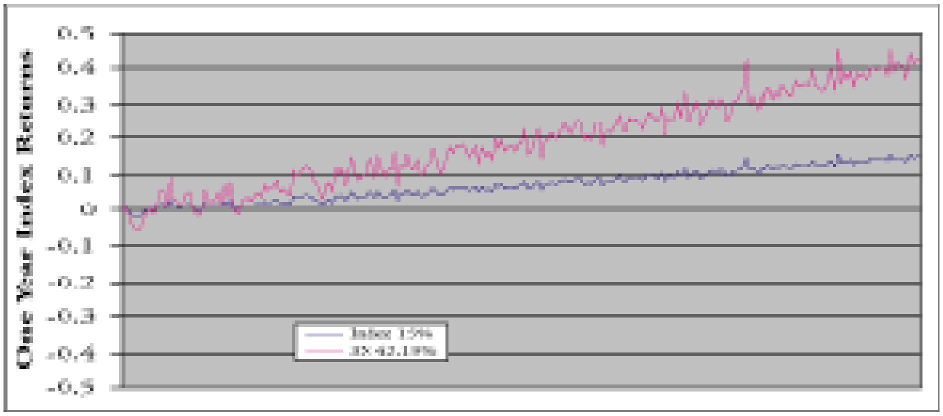
Each of the three graphs below shows a simulated hypothetical one year performance of an index compared with the performance of a Fund that perfectly achieves its investment objective of three times (300%) the daily index returns. The graphs demonstrate that, for periods greater than one day, a leveraged Fund is likely to underperform or over-perform (but not match) the index performance times the stated multiple in the Fund objective.

To isolate the impact of leverage, these graphs assume a) no dividends paid by the companies included on the index; b) no fund expenses; and c) borrowing/lending rates (to obtain required leverage) of zero percent. If fund expenses were included, the Fund's performance would be lower than that shown. Each of the graphs also assumes a volatility rate of 15%, which is approximate for a major domestic index. An index's volatility rate is a statistical measure of the magnitude of fluctuations in the returns of an index. Other indexes to which the Funds are benchmarked have different historical volatility rates; certain of the Funds' historical volatility rates are substantially in excess of 15%.

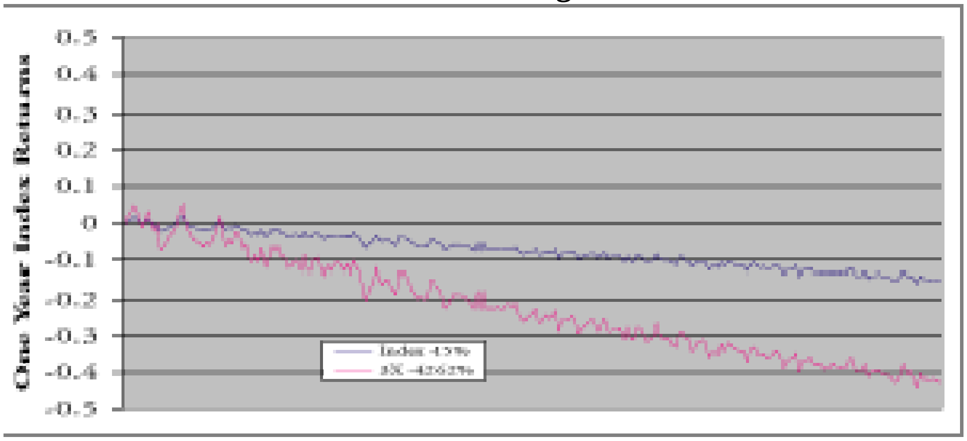
Flat Market



Upward Trending Market



Downward Trending Market



***

Inverse Correlation Risk

Each Bear Fund is negatively correlated to its index or benchmark and should lose money when its index or benchmark rises — a result that is the opposite from conventional funds. Because each Bear Fund seeks daily returns inverse by a defined percentage to its index or benchmark, the difference between a Bear Fund's daily return and the price performance of its index or benchmark may be negatively compounded during periods in which the market's decline.

***

Tracking Error Risk

Several factors may affect a Fund's ability to achieve its daily target. A Fund may have difficulty achieving its daily target due to fees and expenses, high portfolio turnover, transaction costs, and/or a temporary lack of liquidity in the markets for the securities held by a Fund. A failure to achieve a daily target may cause a Fund

> to provide returns for a longer period that are worse than expected. In addition, a Fund that meets its daily target over a period of time may not necessarily produce the returns that might be expected in light of the returns of its index or benchmark for that period. Differences may result from the compounding effect of daily market fluctuations, the use of leverage and the Bear Funds' inverse correlation.

91. Indeed, Defendants' foregoing risk disclosures stated or showed that, in conditions in which the underlying index was moving in an upward trend or downward trend, the correlation risk was relatively low over a period of one year.

(a) If the underlying index was "flat" over the year, then the percentage of simulated correlation risk could be somewhat greater. But such risk disclosures lulled the investor by also stating that many indices or benchmarks had higher historical volatility than the volatility in the risk disclosure simulation. This implied that these indices would be somewhat less likely to experience a "flat" market in a period of one year duration, *i.e.*, would be less likely to underperform.

92. The graphs even misleadingly implied that if a fund was held for a longer period of time, the results would be better. Defendants chose misleadingly not to include in the risk disclosure section, any graphs of the results of the ETFs most vulnerable to the undisclosed extraordinary risks of Defendants' undisclosed formula, that is, the Direxion Bear funds.

93. When Defendants introduced its new security and investment product, the triple leveraged Bear Funds, it was incumbent upon Defendants to disclose the material risks of investing in same. Defendants had an obligation to provide all "essential information" about the Bear Funds "in a way that will help investors to make informed decisions about whether to purchase the Fund's shares described in the prospectus." SEC Form N-1A, General Instructions, p. 7; *see also* 17 C.F.R. § 274.11A (stating that Part A of Form N-1A must include the information required in a fund's prospectus under Section 10(a) of the Securities Act).

94. Cross-references to the Statement of Additional Information ("SAI") or shareholder reports are to be avoided if possible, *see id.*, and all major Risk Factors are to be clearly explained in the prospectus part of the registration statement. *See* SEC Form N-1A General Instructions, pp. 16-19. As the SEC also makes abundantly clear: "The purpose of the SAI is to provide additional information about the Fund that the Commission has concluded is not necessary or appropriate in the public interest or for the protection of investors to be in the prospectus, but that some investors may find useful." *See* General Instructions, p. 7.

95. Throughout the Class Period, Defendants were required in the "Principal Risks," or risk factors, portion of the prospectus section of Direxion's Registration Statements to make, but in fact failed to make, prominent, specific and comprehensible disclosure of each of the following important risks of the loss of a substantial portion of the investor's original investment if the investor chose to purchase a Direxion triple leveraged Bear ETF, including the FAZ, ERY, BGZ and TZA Funds:

a. The Bear Funds were not intended to be used by, and are not appropriate for, investors who intend to purchase any share(s) unless they sell out the entire position in the shares(s) in the same trading session;

b. The Bear Funds are not intended to be used by, and are not appropriate for, investors who intend to hold any of their positions for longer than the same day in which they purchased such positions;

c. If an investor purchases a share(s) in a Direxion Bear Fund and does not sell the entire position in the same trading session, the investor is at risk of losing the entire amount of his investment;

d. Even if the underlying index declines substantially, the Direxion Bear Funds could not only fail to raise three times as much as the index declined, but could decline substantially.

e. If an investor purchases a share(s) in a Direxion Bear Fund, including the FAZ, ERY, BGZ and TZA Funds, and holds the position for a period longer than a single day, the return of the Fund would be completely uncorrelated to the return of the Fund's benchmark index for any longer period;

f. Mathematical compounding prevents the Bear Funds from significantly matching returns of their underlying index for periods longer than a day;

g. During periods of high volatility mathematical compounding will have an extreme negative effect on the Funds' performance, other than for the purchase and sale of a Fund's shares for a single day only;

h. Direxion does not design or operate their Bear Funds to achieve investment results that correspond to the performance of their applicable index for periods longer than a single day and therefore investments in the Bear Funds should not be held for more than a single day and should be sold in the same trading session in which they were purchased;

i. The negative effect of mathematical compounding on cumulative returns is magnified in the Direxion Funds since they utilize triple leverage and therefore investments in the Bear Funds should not be held for more than a single day and should be sold in the same trading session in which they were purchased;

j. Volatile markets exacerbate the negative effects of compounding and leverage on cumulative returns and increased index volatility will increase the likelihood that the Bear Funds will not perform and therefore investments in the Bear Funds shall not be held for more than a single day and should be sold in the same trading session in which they were purchased;

k. An inherent risk in a so-called Direxion Bear Fund is that the Direxion Bear Fund could decrease substantially in value even when the underlying index decreased substantially and, therefore, investments in the Bear Funds should not be held for more than a single day and should be sold in the same trading session in which they were purchased;

l. Even if an investor was correct in their expectation that a substantial decline would occur in a given index or benchmark, the investor could suffer substantial losses if the investor chose to act on that expectation by investing in the Direxion Bear Funds for that index or benchmark and holding the investment for more than one day;

m. When the investor was correct that a substantial decline would occur in the index and the investor would have profited from such decline by shorting the index directly or through virtually any means of shorting the index, *other than through the purchase of the Direxion Bear Funds*, the investor could still suffer substantial losses of their original investment if the investor chose to instead purchase the Direxion Bear Funds in an attempt to achieve his goal and held the investment for more than one day;

n. Even if the investor was correct and the underlying index declined substantially over a period of weeks or months, the investor still could lose substantially all his investment by investing in the Direxion Bear Fund on its respective index and therefore an investment in the Bear Fund should not be held for more than a single day and should be sold in the same trading session in which it was purchased;

o. The foregoing inherent risk of loss of an investment in Direxion's Bear Funds existed no matter how large the decrease in the underlying index. Contrary to Defendants' representations (a) the underlying index did not have to be "flat" or "trendless" over the investor's holding period for losses to occur, and (b) in a substantial uptrend or downtrend in the index, very large underperformance and, indeed, opposite performance could and did occur;

p. An inherent characteristic and risk of loss in a Bear Fund was that it could generate the opposite returns from what its name indicated when the underlying index or benchmark decreased substantially and therefore investments in the Bear Funds should not be held for more than a single day and should be sold in the same trading session in which they were purchased;

q. The name Direxion (pronounced "DIRECTION") was a misnomer because any Direxion fund could and, during the class period, many such Direxion funds actually did, decline substantially when the underlying index declined substantially and therefore investments in the Bear Funds should not be held for more than a single day and should be sold in the same trading session in which they were purchased;

r. Even if the underlying index declined substantially over a period of four months, the investor could sustain such extreme losses on the Direxion Bear Funds, that the investor mathematically could not recoup their investment in the Direxion Funds and therefore investments in a Bear Fund should not be held for more than a single day and should be sold in the same trading session in which they were purchased.

96. The Registration Statement and Prospectus also failed to make specific mathematical or specific plain English disclosures of the material risks involved in Direxion triple leveraged Bear Funds sufficient to enable investors to make informed investment decisions. This mathematical formula, if it had been disclosed, would have provided material and sum certain information to investors and their more sophisticated advisors to help investors to make informed decisions about whether to purchase the Funds' shares.

97. Rather than present the mathematical basis or plain English disclosures for their products and describe such products' resulting performance and components, Defendants cobbled together instead an amalgam of qualitative discussions employing undefined terms and self- serving graphs and matrices. This mix of information presented a green light for investors to make purchases and also hold Direxion's Bear ETFs for extended periods. They transformed Defendants' ETFs into an extremely fast growing product that grew to more than five billion dollars ($5,000,000,000) in funds outstanding during the Class Period.

98. The Statement of Additional Information ("SAI") incorporated into the Prospectus by reference contain additional risk factor-disclosures.

99. Cross-references to the Statement of Additional Information ("SAI") or shareholder reports are to be avoided if possible, and all major Risk Factors are to be clearly

explained in the prospectus part of the registration statement. *See* SEC Form N-1A General Instructions, pp. 16-19; *see* ¶ 93, *supra*. In any event, these risk disclosures were also materially misleading.

100. The SAI contained the following additional misleading risk disclosures concerning "tracking error:"

> **Risk of Tracking Error**
>
> Several factors may affect a Fund's ability to track the performance of its applicable index. Among these factors are: (1) Fund expenses, including brokerage expenses and commissions (which may be increased by high portfolio turnover); (2) less than all of the securities in the target index being held by a Fund and securities not included in the target index being held by a Fund; (3) an imperfect correlation between the performance of instruments held by a Fund, such as futures contracts and options, and the performance of the underlying securities in the cash market comprising an index; (4) bid-ask spreads; (5) a Fund holding instruments that are illiquid or the market for which becomes disrupted; (6) the need to conform a Fund's portfolio holdings to comply with that Fund's investment restrictions or policies, or regulatory or tax law requirements; and (7) market movements that run counter to a Bull Fund's investments (which will cause divergence between a Fund and its target index over time due to the mathematical effects of leveraging).
>
> While index futures and options contracts closely correlate with the applicable indices over long periods, shorter-term deviation, such as on a daily basis, does occur with these instruments. As a result, a Fund's short-term performance will reflect such deviation from its target index.
>
> In the case of Bear ETFs whose NAVs are intended to move inversely from their target indices, the factor of compounding also may lead to tracking error. Even if there is a perfect inverse correlation between a Fund and the return of its applicable target index on a daily basis, the symmetry between the changes in the benchmark and the changes in a Fund's NAV can be altered significantly over time by a compounding effect. For example, if a Fund achieved a perfect inverse correlation with its target index on every trading day over an extended period and the level of returns of that index significantly decreased during that period, a compounding effect for that period would result, causing an increase in a Fund's NAV by a percentage that is somewhat greater than the percentage that the index's returns decreased. Conversely, if a Fund maintained a perfect inverse correlation with its target index over an extended period and if the level of returns of that index significantly increased over that period, a compounding effect would result, causing a decrease of a Fund's NAV by a percentage that would be somewhat less than the percentage that the index returns increased.

101. In addition the SAI contained the following disclosure directed only toward the Bull Funds concerning correlation risks, and the Principal Risks Section of the Prospectuses, indicated that the correlation risks specifically did not apply to the Bear Funds:"

> The first table below shows an example in which a Bull Fund that has an investment objective to correspond to three times (300% of) the daily performance of an index. The Bull Fund could be expected to achieve a 30% return on a yearly basis if the index performance was 10%, absent any costs or the correlation risk or other factors described above and in the Prospectus under "Correlation Risk." However, as the table shows, with an index volatility of 20%, such a fund would return 18.02%, again absent any costs or other factors described above and in the Prospectus under "Correlation Risk." In the charts below, areas shaded green represent those scenarios where a Bull Fund with the investment objective described will outperform (i.e., return more than) the index performance times the stated multiple in the Fund's investment objective; conversely areas shaded red represent those scenarios where the Fund will underperform (i.e., return less than) the index performance times the stated multiple in the Fund's investment objective.

102. Set forth at the end of this risk disclosure section directed only toward the Bull Funds, and not the Bear Funds, were three tables intended to illustrate (a) estimated Fund return over *one year* when the Fund objective is to seek daily investment results, before fund fees and expenses and leverage costs, that correspond to 300% of the daily performance of an index; (b) estimated Fund return over *one year* when the Fund objective is to seek daily investment results, before fees and expenses, that correspond to the inverse (minus 100%) of the daily performance of an index; and (c) estimated fund return over *one year* when the fund objective is to seek daily investment results, before fees and expenses, that correspond to three times the inverse (minus 300%) of the daily performance of an index. Without meaningful additional narrative or explanation, Direxion states that these three tables are intended to isolate the effect of index volatility and index performance on the return of a Bull Fund and that the Fund's actual returns may be significantly greater or less than the returns shown above as a result of any of the factors discussed above or under "Correlation Risk" in prospectus.

103. These disclosures, too, were materially misleading. In any event, Direxion specifically informed investors that this Section of the SAI applied only to the Bull Funds and not to the Bear Funds. Bear Fund Investors would have no reason to read these disclosures in that they were told such disclosures did not pertain to their prospective investments.

104. All of the above discussed disclosures were materially misleading because they failed to disclose the material risks set forth above, as well as the following:

- Inverse correlation between the Bear Funds, including their underlying indexes set forth in Exhibit "2", including but not limited to the FAZ, ERY, BGZ, and TZA Funds, over time would only happen in the rarest of circumstances, and inadvertently, if at all;

- The extent to which performance of the Bear Funds, including their underlying indexes set forth in Exhibit "2", including but not limited to the FAZ, ERY, BGZ, and TZA Funds, would inevitably diverge from the performance of their underlying indices - - i.e., the probability, if not certainty of spectacular tracking error;

- The severe consequences of high market volatility on the Bear Funds' investment objectives and performance;

- The severe consequences of inherent path dependency in periods of high market volatility on the Bear Funds' performance;

- The negative role the Bear Funds, including their underlying indexes set forth in Exhibit "2", including but not limited to the FAZ, ERY, BGZ, and TZA Funds, play in increasing market volatility, particularly in the last hour of trading;

- The negative consequences of the Bear Funds', including their underlying indexes set forth in Exhibit "2", including but not limited to the FAZ, ERY, BGZ, and TZA Funds, daily hedge adjustments always going in the same direction as the movement of the underlying index, notwithstanding that they are inverse leveraged ETFs;

- The Bear Funds, including their underlying indexes set forth in Exhibit "2", including but not limited to the FAZ, ERY, BGZ, and TZA Funds, cause dislocations in the stock market;

- The Bear Funds, including their underlying indexes set forth in Exhibit "2", including but not limited to the FAZ, ERY, BGZ, and TZA Funds, offer a seemingly straight forward way to obtain desired exposure, but such exposure is not attainable through the Bear Funds.

105. In addition to omitting to disclose material risks concerning the Direxion Bear Funds, Direxion's Registration Statement and Prospectus filed November 3, 2008, and all other Registration Statements and Prospectuses filed prior to and throughout the Class Period, consistently empowered and encouraged investors to hold Direxion's leveraged Bear ETFs for substantial periods of time, including periods of one year.

106. The Registration Statements and Prospectuses used an evolving series of qualitative statements with undefined terms regarding short term trading vehicles, volatility, and compounding. They also gave examples, illustrations, and expense and hypothetical performance information that would only be important to buy and hold investors. Defendants did so by, for example:

a. providing tables of different projected returns, over a holding period of one year, for investments in leveraged funds:

- *see* SAI of Registration Statement ("RS") filed September 29, 2008, pp. 29-30;
- *see* SAI of Registration Statement ("RS") filed October 1, 2008, pp. 27-29;
- *see* SAI of Registration Statement ("RS") filed October 1, 2008, as supplemented on November 3, 2008, pp. 27-29.
- *see* SAI of Registration Statement ("RS") filed October 1, 2008, as supplemented on November 3, 2008 and December 9, 2008, pp. 28-30;
- *see* SAI of Registration Statement ("RS") filed October 1, 2008, as supplemented on April 10, 2009, pp. 28-31 (showing 100% volatility parameters).

b. providing charts illustrating one year (1 yr.) index returns:

- *see* SAI of Registration Statement ("RS") filed September 29, 2008, pp. 20-21;
- *see* SAI of Registration Statement ("RS") filed October 1, 2008, p. 11;
- *see* SAI of Registration Statement ("RS") filed October 1, 2008, as supplemented on November 3, 2008, p. 9

c. describing the impact on investment results of dividends -the receipt of which required holding past times of ex-dividend dates:

- *see* September 29, 2008 Form N-1A, p. 176;
- *see* October 1, 2008 Form N-1A, p. 42;
- *see* October 1, 2008, as supplemented on November 3, 2008 p. 28;
- *see* October 1, 2008, as supplemented on November 3, 2008 and December 9, 2008, p. 49;
- *see* October 1, 2008, as supplemented on April 10, 2009, p. 121;

d. estimating the costs of investing $10,000 in the Direxion ETFs for periods of one or three years assuming a 5% annual return, not a daily return:

- *see* September 29, 2008 Form N-1A, pp. 16-39;
- *see* October 1, 2008 Form N-1A, pp. 10-14;
- *see* November 3, 2008 Supplement, pp. 16-22;
- *see* December 9, 2008 Prospectus, pp. 12-35;
- *see* December 17, 2008 Form N-1A, pp. 12-34;
- *see* April 10, 2009 Supplement, pp. 32-81

e. otherwise making numerous disclosures that enabled and encouraged investors to hold Direxion shares for extended periods of time.

107. The September 29, 2008 Registration Statement and all Registration Statements throughout the Class Period, provided examples of expenses to be incurred by investors when they held each specific Bear Fund for 1 and 3 year periods. The Registration Statement suggested the "annual fund operating expenses" for persons who held their investments for 1 or 3 years were estimates, indicating that investing for periods greater than one day is a perfectly acceptable strategy.

108. The Registration Statement provided an example to investors which was based upon a hypothetical assumption that they invested $10,000 in a specific Bear Fund for a 1 or 3 year period and then redeemed their shares at the end of either the 1 or 3 year period. It also stated and represented to investors that for each specific Bear Fund they were to assume that their investment has a 5% return ***each year***. The specific examples for each of the specific Direxion ETFs including, FAZ, ERY, BGZ and TZA, did not contain any qualifying language

and did not state investments in the Bear Funds should not be held for more than a single day and should be sold in the same trading session in which they were purchased.

109. Below is a specific example with respect to the Large Cap Bear 3X Shares Fund ("BGZ Fund").

Large Cap Bull 3X Shares
Large Cap Bear 3X Shares

> **Fees and Expenses.** These tables describe the estimated fees and expenses that you may pay if you buy, hold or sell Creation Units of the Large Cap Funds. Annual fund operating expenses are estimates.
>
> **Expense Example**
>
> The table below is intended to help you compare the cost of investing in the Large Cap Funds with the cost of investing in other funds. Investors should note that the following examples are for illustration purposes only and are not meant to suggest actual or expected fees and expenses or returns, all of which may vary. The Large Cap 3X Shares issues and redeems Shares in Creation Units for cash and also on an in-kind basis. The Large Cap Bear 3X Shares issues and redeems Shares in Creation Units for cash. Shares are issued and redeemed in Creation Unit aggregations only. The example does not include the brokerage commissions that secondary market investors may incur to buy and sell Shares. **The table assumes that you invest $10,000 in Creation Units of the Large Cap Funds for the periods shown and then redeem all of your Shares at the end of the periods, but does not include transaction fees on purchases and redemptions of Shares. It also assumes that your investment has a 5% return each year and that the Large Cap Funds' operating expenses remain the same through each year**. Although your actual costs may be higher or lower, based on these assumptions your costs would be: (emphasis supplied)

<table>
<tr>
<td>Large Cap Bull 3X Shares

1 Year   3 Years
$97 $313

Large Cap Bear 3X Shares

1 Year   3 Years
$97 $318

(emphasis supplied)</td>
<td>Annual Operating Expenses(2) (as a percentage of daily assets):

Large Cap Bull 3X Shares
Management Fees 0.75%
Distribution and/or Service (12b-1) Fees(3) 0.00%
Other Expenses(4) (5) 0.25%
Total Annual Operating Expenses 1.00%
Expense Waiver/Reimbursement 0.05%
Net Annual Operating Expenses(7) 0.95%

Large Cap Bear 3X Shares</td>
</tr>
</table>

	Management Fees 0.75% Distribution and/or Service (12b-1) Fees(3) 0.00% Other Expenses(4) (5) 0.27% Total Annual Operating Expenses 1.02% Expense Waiver/Reimbursement 0.07% Net Annual Operating Expenses(7) 0.95% (1) For the Large Cap Bull 3X Shares and the Large Cap Bear 3X Shares, fixed transaction fees of $2,500 and $500, respectively, will be charged when you create or redeem Creation Units regardless of the number of Shares redeemed on the date of the transaction. For the Large Cap Funds, a variable transaction fee of up to 0.15% of the value of each Creation Unit will be charged to offset costs associated with processing the order. An additional fee of up to 3 times the fixed per order transaction fee plus up to 0.15% of the value of each Creation Unit may be charged if you do not create or redeem Shares through the Continuous Net Settlement System of the NSCC, or in

(emphasis added).

110. These statements and representations were all encompassing and did not contain any meaningful limitations or qualifications for investors which would have suggested that investors not hold their investments for 1 year or 3 years.

111. Direxion also suggests through other language in its Registration Statement and Prospectus that its Funds are appropriate investment vehicles for long-term and retail investors:[2]

> Shares may only be purchased from or redeemed with the Funds in Creation Units. As a result, ***retail investors*** generally will not be able to purchase or redeem Shares directly from or with the Funds. ***Most retail investors will purchase or sell Shares in the secondary market with the assistance of a broker.*** Thus, some of the information contained in this prospectus such as information about purchasing and redeeming Shares with the Fund and all references to the

[2] Retail investors are individuals who purchase securities for their own personal accounts rather than for an organization. Retail investors typically trade in much smaller amounts, and less frequently, than institutional investors such as mutual funds, pension funds, or university endowments.

transaction fee imposed on purchases and redemptions, is not relevant to ***retail investors***.

***

High Portfolio and Turnover Risk

Frequent trading could increase the rate of creations and redemptions of Fund Shares and the Funds' portfolio turnover, which could involve correspondingly greater expenses to a Fund, including brokerage commissions or dealer mark-ups/mark-downs and adverse tax consequences to a Fund's shareholders.

Unlike traditional mutual funds, however, each Fund issues and redeems its Shares at NAV per share in Creation Units plus applicable transaction fees and each Fund's Shares may be purchased and sold on the Exchange at prevailing market prices. ***Given this structure, the risks of frequent trading may be less than in the case of a traditional mutual fund.*** Nevertheless, to the extent that purchases and redemptions directly with the Funds are effected in cash rather than through a combination or redemption of portfolio securities, frequent purchases and redemptions could still increase the rate of portfolio turn-over.

The costs associated with the Funds' portfolio turnover will have a negative impact on longer-term investors. Although the Funds reserve the right to reject any purchase orders or suspend the offering of Fund Shares, the Funds do not currently impose any trading restrictions on Fund shareholders nor actively monitor for trading abuses.

***

A Precautionary Note to Retail Investors the Depository Trust Company ("DTC"), a limited trust company and securities depositary that serves as a national clearinghouse for the settlement of trades for its participating banks and broker-dealers, or its nominee will be the registered owner of all outstanding Shares of each Fund of the Trust. Your ownership of Shares will be shown on the records of DTC and the DTC Participant broker through whom you hold the Shares. THE TRUST WILL NOT HAVE ANY RECORD OF YOUR OWNERSHIP. ***Your account information will be maintained by your broker, who will provide you with account statements, confirmations of your purchases and sales of Shares, and tax information.*** Your broker also will be responsible for ensuring that you receive shareholder reports and other communications from the Fund whose Shares you own. Typically, you will receive other services (e.g., average cost information) only if your broker offers these services.

(emphasis in bold italics added).

112. Again these disclosures did not contain any qualifying language and did not state investments in the Bear Funds should not be held for more than a single day and should be sold in the same trading session in which they were purchased.

113. On December 9, 2008, Direxion supplemented its Registration Statement and Prospectus in a filing with the SEC on Form 497. In this document, Direxion disclosed for the first time that the Funds are intended to be used as short-term trading vehicles. In particular the Supplemented Prospectus filed December 7, 2008, disclosed:

> **The Funds are exchange-traded funds that seek *daily leveraged* investment results. The Funds are intended to be used as short-term trading vehicles. The pursuit of leveraged investment goals means that the Funds are riskier than alternatives which do not use leverage. Further, the pursuit of *daily* leveraged investment goals means that the return of a Fund for a period longer than a single day will be the product of the series of daily leveraged returns for each day during the relevant period. As a consequence, especially in periods of market volatility, the path of the benchmark during the period may be at least as important to the Fund's return for the period as the cumulative return of the benchmark for the relevant period. The Funds are not suitable for all investors. The Funds should be utilized only by sophisticated investors who (a) understand the risks associated with the use of leverage, (b) understand the consequences of seeking daily leveraged investment results and (c) who intend to actively monitor and manage their investments. There is no assurance that the Funds will achieve their objectives and an investment in a Fund could lose money. No single Fund is a complete investment program.**

(emphasis in original).

114. Direxion, however, stopped short of making the types of disclosures that would render the December 9th Prospectus not materially misleading. Instead, Defendants further confused investors by misleading them concerning the expected return of a Direxion Bear ETF for a period longer than one day. Defendants' warnings on its December 17, 2008 Prospectus Cover are vague, confusing and misleading.

115. First, Direxion failed to define the term "short term trading vehicle" which is susceptible to multiple meanings. For instance, InvestorWords.com defines "short term" as

"[u]sually one year or less." YourDictionary.com defines "short term," among other things, as "designating or of a capital gain, loan, etc. that involves a relatively short period, usually of less than a year." Typically short-term is defined as a year period. See American Heritage Dictionary 4th Edition at p. 1611. Moreover, in the context of accounting, both the FASB (the Financial Accounting Standards Board) and GAAP (Generally Accepted Accounting Principles) recognize assets, including **investments**, to be "short term" if they are expected to mature within **one year**.

116. Significantly, Direxion failed to disclose that its Funds were only appropriate investment vehicles for day trades and that they were inappropriate investment vehicles for traders who intended to hold their Fund positions for periods greater than the day on which they were purchased.

117. Second, Defendants make the false and misleading statement in the Prospectus that "the pursuit of daily leveraged investment goals means that the return of a Fund for a period longer than a single day will be the product of the series of daily leveraged returns for each day during the relevant period." According to Defendants' statement, a multi-day return is calculated as follows: $3R_1 \, x \, 3R_2 \, x \, 3R_3 \, x \, 3R_4 \, x \, 3R_5$ and so on. Since the absolute values for R_t and $3R_t$ are generally less than 1, the product of these returns converges to zero and will be completely unrelated to the Fund's actual results for a holding period longer than a day; the longer the holding period, the closer the product of the returns gets to zero.

118. As an example, the following table summarizes the results for the FAZ Fund during the 14 trading days from November 7, 2008, through November 26, 2008, multiplying the results each day by the product of the prior days' results:

Date	Ret(FAZ)	Ret(Index)	Product of FAZ Returns
11/7/2008	-5.26%	2.42%	
11/10/2008	8.25%	-4.37%	-- 0.43431771097317300%
11/11/2008	6.33%	-2.14%	-0.000275024
11/12/2008	17.51%	-6.57%	-4.81651E-05
11/13/2008	-26.42%	7.05%	1.27251E-05
11/14/2008	16.59%	-5.35%	2.11102E-06
11/17/2008	13.90%	-5.37%	2.93362E-07
11/18/2008	2.28%	-0.47%	6.67881E-09
11/19/2008	26.19%	-11.44%	1.74903E-09
11/20/2008	24.67%	-10.20%	4.31512E-10
11/21/2008	-13.04%	3.70%	-5.62665E-11
11/24/2008	-55.96%	15.27%	3.14876E-11
11/25/2008	-15.97%	2.37%	-5.0282E-12
11/26/2008	-14.19%	4.68%	7.1353E-13

119. Applying the statement in the Prospectus to the actual results for the FAZ Fund over the 14 trading days indicates a return for FAZ that is 7.1353E-13. This exponential notation means 7.1353 x 10^{-13}; in fractional form, $\frac{7.1353}{10{,}000{,}000{,}000{,}000}$ (slightly more than 7/ten trillionths) or in decimal notation, 0.000000000000713. Based upon the equation in the Prospectus, the expected return for the 14 day period would be practically zero.

120. If a Class member had invested $1,000 in the FAZ Fund on November 11, 2008, according to the equation set forth in the Prospectus, he would expect to earn virtually nothing over this 14-day period, thus ending the trading day on November 26, 2008, with the same $1,000 balance in his investment account.

121. In fact, if a Class member invested $1,000 in the FAZ Fund on November 11, 2008, at the end of the 14-day period, he actually would have had only $556.35 in his account. In other words, although the equation in the Prospectus that purportedly described the effect of

holding a Direxion Bear Fund for more than one trading day showed neither a gain nor a loss, in fact the Class member would have suffered a substantial loss of approximately 44 percent of his investment from November 11, 2008, to November 26, 2008, as shown in the following table:

Date	Ret(FAZ)	FAZ Value
		$ 1,000.00
11/7/2008	-5.26%	$ 947.39
11/10/2008	8.25%	$ 1,025.59
11/11/2008	6.33%	$ 1,090.54
11/12/2008	17.51%	$ 1,281.52
11/13/2008	-26.42%	$ 942.95
11/14/2008	16.59%	$ 1,099.38
11/17/2008	13.90%	$ 1,252.16
11/18/2008	2.28%	$ 1,280.66
11/19/2008	26.19%	$ 1,616.04
11/20/2008	24.67%	$ 2,014.74
11/21/2008	-13.04%	$ 1,752.03
11/24/2008	-55.96%	$ 771.57
11/25/2008	-15.97%	$ 648.36
11/26/2008	-14.19%	$ 556.35

122. This illustrates that the statement in the Prospectus that "the return of a Fund for a period longer than a single day will be the product of the series of daily leveraged returns for each day during the relevant period" is materially false and misleading, it concealed from the Class the substantial risk of loss associated with holding Direxion Bear Funds for periods longer than a single trading day, and it mistakenly conveyed the impression that Direxion Bear Funds were risk-free investments over long holding periods.

123. Defendants' statement "the pursuit of daily leveraged investment goals means that the return of a Fund for a period longer than a day will be the product of a series of daily leveraged returns for each day during the relevant period" was inaccurate and misleading and further confused investors.

124. Third, Defendants state that "as a consequence" of the misleading and inaccurate statement referred to above, "especially in periods of market volatility, the path of the benchmark during the period may be at least as important to the Fund's return for the period as the cumulative benchmark for the relevant period." "As a consequence…" contains no real meaningful accurate information for investors as it merely states that one factor "may" be more important than another. For example, logically let the statement "the path of the benchmark during the period" be Statement A, and the Funds performance during the period be Statement B. Or, in arithmetic, A could be greater than B. For example, by inference, it could also be less than B. In other words, A compared to B could be anything. The Statement does not assist or inform investors and merely continues to confuse them completely.

125. Defendants' statement in their December 9, 2008 Prospectus cover concerning volatility is a meaningless vague statement. "Volatility" means "change," and as prices change continuously when markets are open, "periods of volatility" translates to "when the Fund trades." Or, "always." Defendants' statement does not warn investors of the real catastrophic historical risks due to volatility and actual volatility ranges occurring from September through December of 2008 and for each subsequent period for all of the underlying indexes or their impact on the Bear Funds.

126. This statement further confused and misled investors as it was vague, ambiguous and failed to prominently and clearly emphasize critical historical and other necessary information concerning volatility risks and their impact on investors' performance in the Bear Funds.

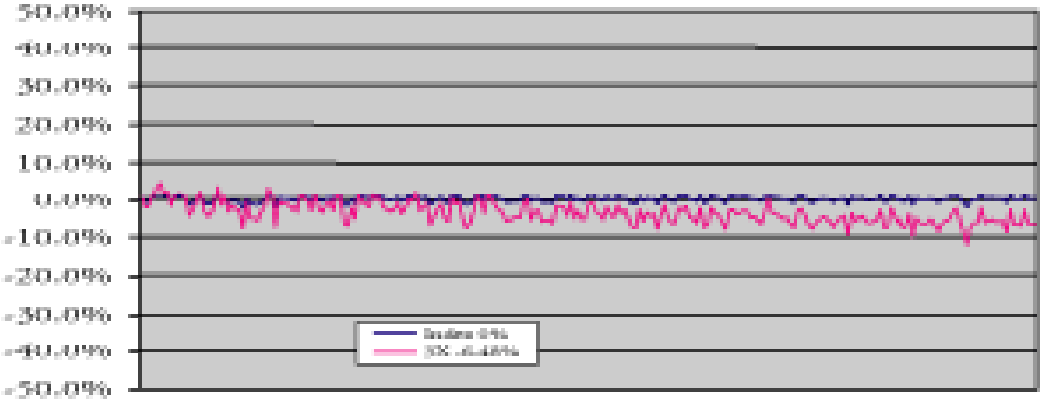
127. Defendants then state investors should "monitor and manage their investments…" but this statement is not informative for investors. In addition, Defendants statement *does not*

say how they should monitor their investments or what rebalancing or other calculations they should perform. It also does *not* say that they should not hold their investments for multiple periods.

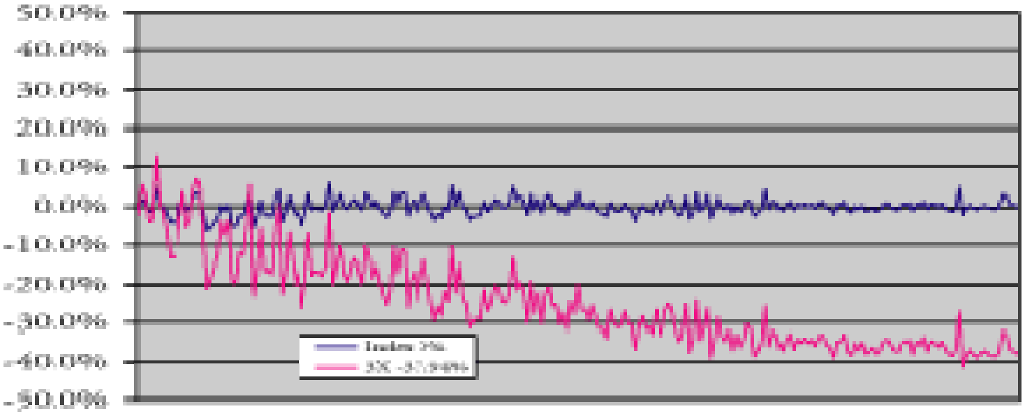
128. In addition to the previous disclosures made in the November 3, 2008 Supplemental Prospectus and Statement of Additional Information, with respect to rebalancing risk and market volatility risk the Prospectus made the following additional inadequate disclosures:

> Each Fund seeks to provide a return which is a multiple of the daily performance of its benchmark. No Fund attempts to, and no Fund should be expected to, provide returns which are a multiple of the return of the benchmark for periods longer than a single day. Each Fund rebalances its portfolio on a daily basis, increasing exposure in response to that day's gains or reducing exposure in response to that day's losses. Daily rebalancing will impair a Fund's performance if the benchmark experiences volatility. For instance, a hypothetical 3X Fund, whether Bull or Bear, would be expected to lose 6.48% (as shown in Graph 1 below) if its benchmark were flat over a hypothetical one year period during which its benchmark experienced annualized volatility of 15%. If the benchmark's annualized volatility were to rise to 40%, the hypothetical loss for a one year period would widen to approximately 38% (as illustrated in Graph 2). The volatility for the Russell 1000 Index for the 12 months ended November 30, 2008, was approximately 40%, as compared to volatility of 15% for the same period one year earlier. An index's volatility rate is a statistical measure of the magnitude of fluctuations in the returns of an index. Other indexes to which the Funds are benchmarked have different historical volatility rates; certain of the Funds' current volatility rates are substantially in excess of 40%. Since market volatility, like that experienced by the markets currently, has negative implications for Funds which rebalance daily, investors should be sure to monitor and manage their investments in the Funds in volatile markets. The graphs assume that the Fund perfectly achieves its investment objective. To isolate the impact of leverage, these graphs assume a) no dividends paid by the companies included on the index; b) no fund expenses; and c) borrowing/lending rates (to obtain required leverage) of zero percent. If fund expenses were included, the Fund's performance would be lower than that shown.

Graph 1


50.0%
40.0%
30.0%
20.0%
10.0%
0.0%
-10.0%
-20.0%
-30.0%
-40.0%
-50.0%

Graph 2


50.0%
40.0%
30.0%
20.0%
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0.0%
-10.0%
-20.0%
-30.0%
-40.0%
-50.0%

129. Defendants' statements concerning "Daily Rebalancing" is vague and misleading. Since there is *always* volatility, daily rebalancing will *always* "impair a Fund's performance." Defendants have again failed to provide meaningful disclosure to the Plaintiffs.

130. Defendants' statement concerning the volatility of the Russell 1000 index, is irrelevant, misleading and biased for the following reasons:

A. It is irrelevant. The benchmark for these funds *is not* the Russell 1000, but the particular industry indices which they purportedly track.

B. It is misleading. Since a portfolio constrained to a single industry is less diversified than a well-diversified portfolio, like the Russell 1000, its volatility will be greater. So the magnitude of the impairment will be much greater than indicated by the charts.

C. It is biased. The annualized volatility of the financial industry index over the complaint period was roughly 90%--much greater than the 40% posited in Graph 2.

131. Finally, Defendants' graphs assume "no fund expenses" and admit that "[i]f fund expenses were included, the Fund's performance would be lower than that shown" again adding to the "irrelevant, misleading and biased" nature of these graphs.

132. Moreover, Direxion, again, included language in the Prospectus that suggested that its Funds, including the FAZ, ERY, BGZ and TZA Funds, were appropriate for retail investors and investors that intended to hold positions for longer than one day:

> Shares may only be purchased from or redeemed with the Funds in Creation Units. As a result, ***retail investors*** generally will not be able to purchase or redeem Shares directly from or with the Funds. ***Most retail investors will purchase or sell Shares in the secondary market with the assistance of a broker***. Thus, some of the information contained in this prospectus, such as information about purchasing and redeeming Shares from or with a Fund and all references to the transaction fee imposed on purchases and redemptions, is not relevant to ***retail investors.***
>
> ***
>
> ***High Portfolio and Turnover Risk***
>
> Frequent trading could increase the rate of creations and redemptions of Fund Shares and the Funds' portfolio turnover, which could involve correspondingly greater expenses to a Fund, including brokerage commissions or dealer mark-ups/mark-downs and adverse tax consequences to a Fund's shareholders.

Unlike traditional mutual funds, however, each Fund issues and redeems its Shares at NAV per share in Creation Units plus applicable transaction fees and each Fund's Shares may be purchased and sold on the Exchange at prevailing market prices. ***Given this structure, the risks of frequent trading may be less than in the case of a traditional mutual fund.*** Nevertheless, to the extent that purchases and redemptions directly with the Funds are effected in cash rather than through a combination or redemption of portfolio securities, frequent purchases and redemptions could still increase the rate of portfolio turn-over.

The costs associated with the Funds' portfolio turnover will have a negative impact on longer-term investors. Although the Funds reserve the right to reject any purchase orders or suspend the offering of Fund Shares, the Funds do not currently impose any trading restrictions on Fund shareholders nor actively monitor for trading abuses.

***

A Precautionary Note to Retail Investors. The Depository Trust Company ("DTC"), a limited trust company and securities depositary that serves as a national clearinghouse for the settlement of trades for its participating banks and broker-dealers, or its nominee will be the registered owner of all outstanding Shares of each Fund of the Trust. Your ownership of Shares will be shown on the records of DTC and the DTC Participant broker through whom you hold the Shares. THE TRUST WILL NOT HAVE ANY RECORD OF YOUR OWNERSHIP. ***Your account information will be maintained by your broker, who will provide you with account statements, confirmations of your purchases and sales of Shares, and tax information.*** Your broker also will be responsible for ensuring that you receive shareholder reports and other communications from the Fund whose Shares you own. Typically, you will receive other services (e.g., average cost information) only if your broker offers these services.

(emphasis in bold italics added).

133. Again these disclosures did not contain any qualifying language and did not state that investments in the Bear Funds should not be held for more than a single day and should be sold in the same trading session in which they were purchased. Throughout the entire Class Period, Direxion did not market the Bear Funds as day trading vehicles or provide plain English instructions in its Registration Statements that an investor should purchase and sell his entire position in a Direxion Bear Fund in the same trading session.

134. Throughout the Class Period, Direxion did not impose any temporal limits on investors in its leveraged Bear Funds and did not instruct its investors to only trade Direxion Funds intra-day on a daily basis only.

135. Throughout the entire Class Period, Defendants knew that investors did not view Direxion's Bear ETFs as trading vehicles in which they were to purchase and sell their entire position in a Direxion ETF in the same day.

136. Prior to its April 10, 2009 Supplement, Defendants never disclosed that its Direxion Bear ETFs were only suitable and appropriate, if at all, as day trading vehicles, such that investors would have to buy and sell out of their entire positions within a single day, or risk suffering enormous losses.

137. Until April 10, 2009, when Defendants radically changed their statements in the April 10, 2009 Supplement, Defendants had not placed any temporal limitations on an investment or holding period.

138. Defendants' statements failed to warn investors of the specific and severe consequences that holding a Bear Fund for more than a day will almost certainly lead to enormous losses. In fact, Direxion could not make that statement and successfully sell units in any of its Bear Funds. Accordingly, Direxion did not represent in its statements in its Registration Statement and Prospectuses that investors must purchase and sell their entire position in a single day.

139. Throughout the Class Period, Defendants continued to confuse investors with an amalgam of vague and ambiguous qualitative discussions employing undefined terms and this ambiguous body of information presented a green light for investors to make purchases and hold Direxion ETFs for more than a single day. Defendants' Registration Statements and

Prospectuses, prior to April 10, 2009, consistently empowered and encouraged investors to hold its ETFs for longer than a day.

140. Once again, the Prospectus also provided hypothetical examples of fees and expenses that investors may encounter over 1 year and 3 year periods, indicating that investing for periods greater than one day is a perfectly acceptable investing strategy. These disclosures also did not contain any qualifying language and did not state investments in the Bear Funds should not be held for more than a single day and should be sold in the same trading session in which they were purchased.

141. Notwithstanding the statements made on December 7, 2008, on December 17, 2008, Direxion again filed a post-effective amendment to its Registration Statement. The amended Registration Statement, which became effective on February 15, 2009, contained the same misleading disclosures that were contained in the December 9, 2009, Prospectus.

142. On December 17, 2008, Direxion Shares issued a press release announcing that it had added six new leveraged ETFs to its existing fund lineup. The press release stated in part:

> "Our first eight Direxion Shares ETFs have been extremely well received by sophisticated advisors and institutional investors – some seeking to hedge positions in their portfolios and **others seeking to take advantage of the current volatile markets**," stated Dan O'Neill, Direxion Shares' President. "We experienced remarkable levels of trading volume following the launch of our initial ETFs, garnering over $800 million in assets in the first five weeks, as of 12/12/2008. The reception of these funds in the marketplace has been overwhelmingly positive." [emphasis supplied]
>
> Much like the first eight Direxion Shares ETFs launched in November 2008, these six new ETFs afford investment advisors and sophisticated investors the ability to execute active trading strategies in varying market types. The funds deliver increased market exposure of 300 percent, long and short, of their respective indices. The suite of Direxion Shares ETFs represents the highest amount of leverage currently available in the ETFs space.

***

> By providing both Bull and Bear versions of each of the indexes, Direxion gives seasoned investors the ability to seek competitive returns in rising and falling markets across a wide spectrum of diversified assets. The ETF structure allows investors to benefit from the flexibility of an exchange traded fund product, coupled with the leveraged investment solution experience that Direxion is known for in the mutual fund industry. (emphasis supplied)

143. On January 8, 2009 Direxion issued a press release announcing that it had added two 3X leveraged ETFs to its existing fund offerings. The press release stated in part:

> "We received such a wonderful response from investors after the launch of our first fourteen ETFs last year," stated Dan O'Neill, Direxion Shares' President. "Trading volume for the products has been quite high, mainly due to the fact that we now offer investors the highest amount of leverage available in the market place on the long and the short side. **Additionally, the flexibility that these products afford investors can prove quite valuable in these volatile markets**." (emphasis supplied)
>
> Many sophisticated advisors and institutional investors are using these 3X ETFs to hedge the positions in their current portfolios, **while others are using the Funds to seek to take advantage of the volatility found in today's markets**. The Direxion Shares ETFs represent the highest amount of leverage currently available in the ETF space. (emphasis supplied)

***

> By providing both a Bull and a Bear Fund to track each of the indexes, Direxion gives seasoned investors the ability to seek competitive returns in rising and falling markets across a wide spectrum of diversified assets.

144. All of the above discussed disclosures made in Direxion's Registration Statements and Prospectuses were false or misleading because they failed to disclose the material risks set forth above.

145. On April 10, 2009, Direxion Shares began to, but did not, come clean about the true risks of its highly leveraged ETF products when it disclosed, among other things, in its supplemented Prospectus filed with the SEC that day that "[t]he return of each Fund for periods longer than a single day, especially in periods of market volatility, may be completely

uncorrelated to the Fund's benchmark for such longer period[;]. . . the Funds are not intended to be used by, and are inappropriate for, investors who intend to hold positions:"

> **The Funds offered in this Prospectus are exchange-traded funds but they are very different from most exchange-traded funds. First, all of the Funds pursue leveraged investment goals, which means that the Funds are riskier than alternatives that do not use leverage because the Funds magnify the performance of the benchmark on an investment. Second, each of the Bear Funds pursues investment goals which are inverse to the performance of its benchmark, a result opposite of most exchange-traded funds. Third, each Fund offered in this Prospectus seeks *daily leveraged* investment results. *The return of each Fund for periods longer than a single day, especially in periods of market volatility, may be completely uncorrelated to the return of the Fund's benchmark for such longer period.***
>
> **The Funds are intended to be used as short-term trading vehicles for investors managing their portfolios on a daily basis. The Funds are not intended to be used by, and are not appropriate for, investors who intend to hold positions. The Funds should be utilized only by sophisticated investors who (a) understand the risks associated with the use of leverage, (b) understand the consequences of seeking daily leveraged investment results, (c) understand the risk of shorting; and (d) intend to actively monitor and manage their investments on a daily basis. Investors who do not understand the Funds or do not intend to manage the funds on a daily basis should not buy the Funds. There is no assurance that the Funds will achieve their objectives and an investment in a Fund could lose money. No single Fund is a complete investment program.**

(italicized emphasis added).

146. With respect to daily rebalancing risk and volatility risk, after the Class Period, On April 10, 2009, the Prospectus further disclosed:

> Each Fund seeks to provide a return which is a multiple of the daily performance of its benchmark. No Fund attempts to, and no Fund should be expected to, provide returns which are a multiple of the return of the benchmark for periods longer than a single day. Each Fund rebalances its portfolio on a daily basis, increasing exposure in response to that day's gains or reducing exposure in response to that day's losses. Daily rebalancing will impair a Fund's performance if the benchmark experiences volatility. For instance, a hypothetical 3X Bull Fund would be expected to lose 11% (as shown in the Table 1 below) if its benchmark provided no return over a one year period during which its benchmark experienced annualized volatility of 20%. A hypothetical 3X Bear Fund would be expected to lose 14% (as shown in the Table 1 below) if its benchmark provided no return over a one year period during which its benchmark experienced

annualized volatility of 20%. If the benchmark's annualized volatility were to rise to 40%, the hypothetical loss for a one year period for a Bull Fund widens to approximately 38% while the loss for a Bear Fund rises to 46%. ***At higher ranges of volatility, there is a chance of a near complete loss of Fund value even if the benchmark is flat. For instance, if annualized volatility of the benchmark is 90%, both a Bull and a Bear Fund targeted to the same benchmark would be expected to lose more than 90% of their value even if the cumulative benchmark return for the year was 0%. An index's volatility rate is a statistical measure of the magnitude of fluctuations in the returns of an index.***

Table 1

Volatility Range	Bull Fund Loss	Bear Fund Loss
10%	−3%	−4%
20%	−11%	−14%
30%	−24%	−29%
40%	−38%	−46%
50%	−53%	−64%
60%	−67%	−80%
70%	−78%	−94%
80%	−87%	−93%
90%	−92%	−97%
100%	−96%	−99%

Table 2 shows the range of volatility for each of the indexes to which one of the Funds is benchmarked over the six months ended February 27, 2009. (In historical terms, volatility ranges during this period were extremely high.) The indexes to which the Funds are benchmarked have historical volatility rates over that period ranging from 3% to 26%. Since market volatility, like that experienced by the markets currently, has negative implications for the performance for periods longer than a single day for Funds which rebalance daily, investors should be sure to monitor and manage their investments in the Funds in volatile markets. Investors can use Table 1 and Table 2 together to understand the risks of holding the Funds for long periods. ***These tables are intended to simply underscore the fact that the Funds are designed as short-term trading vehicles for investors managing their portfolios on a daily basis. They are not intended to be used by, and are not appropriate for, investors who intend to hold positions in an attempt to generate returns through time.***

Table 2

Index	Volatility Range
BNY BRIC Select ADR Index®	99%

BNY China Select ADR Index®	82%
IIdus India Index	82%
IMSCI EAFE® Index	67%
IMSCI Emerging Markets Index℠	100%
IMSCI US REIT Index℠	111%
NYSE Current 2 Year U.S. Treasury Index	3%
NYSE Current 5 Year U.S. Treasury Index	8%
NYSE Current 10 Year U.S. Treasury Index	13%
NYSE Current 30 Year U.S. Treasury Index	26%
Russell 1000® Index	57%
Russell 1000® Energy Index	83%
Russell 1000® Financial Services Index	93%
Russell 1000® Technology Index	60%
Russell 2000® Index	64%
Russell 3000® Index	58%
Russell Midcap® Index	62%
S&P Global Clean Energy Index™	93%
S&P Homebuilding Select Industry Index℠	118%
S&P Latin America 40 Index	101%

(emphasis added).

147. Defendants began in April of 2009 to reverse their previous positions and began to provide some important information. However, they continued to mislead investors and failed to provide the historical information concerning performance and volatility as well as the risks set forth above.

148. Thus, on April 10, 2009 Defendants, for the first time, disclosed:

a. **"The Funds are not intended to be used by, and are not appropriate for, investors who intend to hold positions;"**

b. **"The Funds should be utilized only by sophisticated investors who… intend to actively monitor and manage their investments on a daily basis;"**

c. **"Investors who do not … intend to manage the Funds on a daily basis should not buy the Funds."**

d. "The return of each Fund for periods longer then a single day, especially in periods of market volatility, may be completely uncorrelated to the return of the Fund's benchmark for such longer period."

149. It was Defendants themselves who had never previously made these disclosures. Defendants effectively admitted above that investors should have been told this by Defendants back in September of 2008, including the specific information concerning Fund and index specific volatility.

150. These new disclosures also began to explain the risks that "even if you are right on the direction of the index, you can lose substantially by investing in a Direxion ETF." However, even this partial disclosure was itself misleading. Not only was it "possible" that the funds would move in the "opposite direction." This was certain to occur in various market conditions.

151. Once again, Defendants effectively acknowledged that their previous disclosures were misleading and began to explain how Defendants' investment product should be properly used, and some of the tools which an investor would need to correctly analyze such Direxion Bear Funds. Defendants still did not tell the investor HOW to invest, use these calculations and rebalancing and any specific formula or even methods for doing so. In fact, Defendants even fail to explain what Defendants mean by or how to "monitor" or periodically rebalance" their portfolio.

152. Further, Defendants substantially revised their disclosures in their Statements of Additional Information in their Supplement dated April 10, 2009 so as to disclose "boomerang" results in which their leveraged ETFs moved in the opposite direction from that expected when the underlying index was not flat or trendless. For the first time, this Registration Statement used

100% volatility parameters in its volatility matrix **and prior to that time only 55% volatility parameters had been provided by Defendants.**

153. Throughout the Class Period, Direxion reinforced the purported benefits of its triple leveraged Bear Funds.

154. Until April 10, 2009, however, Defendants failed to disclose the specific catastrophic risks, facts, or consequences concerning an investor's not purchasing and selling out his entire position in a single day.

155. Defendants failed to adequately disclose, prior to April 10, 2009, that investments in Direxion's triple leveraged Bear Funds during times of extreme volatility could be disastrous, with the potential for the Funds to deliver enormous losses in relatively short periods. In fact, to the contrary, when Direxion launched its new leveraged ETFs, on November 3, 2008, including the FAZ, ERY, BGZ and TZA Funds, it touted and emphasized the benefits of volatility in connection with an investment in its Funds:

> "Our new leveraged Bull and Bear ETFs offer an unprecedented level of leverage in the ETF arena, something that today's dynamic investors are demanding… **Direxion's Shares will give savvy investors the array of important investment options they have been seeking to actively capitalize on the volatility of today's market.**

(emphasis supplied).

156. Through the design of its triple leveraged Bear Funds, Direxion exposed investors to the real possibility of losing a majority of their investment in fast-moving and volatile markets. Notwithstanding the same, Direxion made its triple leveraged Funds available to all retail investors and suggested through its Registration Statement and Prospectus that investing in its Funds was appropriate for retail investors.

157. Defendants failed to warn Plaintiff and class members that its triple leveraged Direxion Bear ETFs were an extremely high risk investment product which could result in

catastrophic losses if investors failed to only day trade the Bear Funds and did not purchase and sell their entire positions in a single trading session.

158. Defendants failed to adequately disclose to Plaintiffs and class members that to maintain their leverage, the Direxion triple leveraged Funds do exactly the opposite of what a prudent investor would do or reasonably expect Direxion to do. For example, Direxion failed to disclose to Plaintiffs and class members that Direxion buys more of an index after it rises in price and sells more after the index falls. Defendants also failed to disclose, until April 10, 2009, that its rebalancing necessarily destroys its Direxion Bear Fund's performance over time.

159. Direxion attempts to explain the relationship between compounding and volatility vis-à-vis an acknowledgement that periods of higher index volatility will cause the effect of compounding to be more pronounced do not at all explain to investors that: (a) volatility erodes returns, a fact not commonly understood; (b) the path that returns take over time has important effects on mid- and long-term total return achieved ; (c) the return – volatility relationship matters even more so where triple leverage is employed. In short, with triple leveraged ETFs, such as the FAZ, ERY, BGZ and TZA Funds, investors receive at least three times the risk of the index but less than three times the return. The drag imposed by return volatility makes such a result inevitable. Obviously, this is not a desirable outcome for investors seeking to hedge against a declining market.

160. Defendants continued to maintain that their Bear Funds, including FAZ, ERY, BGZ and TZA, were appropriate to be held by investors for extended periods of time. Only after investor complaints, increasing regulatory investigations and pressure, did Defendants disclose many material risks of catastrophic financial loss inherent in holding Direxion's leveraged funds

for more than a day. These risks had never previously been adequately disclosed but had existed since the inception of the Defendants' offering of its leveraged Bear ETFs in September of 2008.

161. Throughout the Class Period, Defendants continued to maintain a green light for investors to hold Defendants' leveraged Bear Funds in their portfolios for extended periods. But Defendants qualified such green light with unexplained and ambiguous "monitoring" and "rebalancing" references and other vague and ambiguous limitations, boiler plate risk disclosures and limitations.

162. Defendants knew that investors could gain from anticipated declines in a given index or benchmark by shorting the index or entering options or other transactions, as opposed to investing in Defendants' high risk Bear Funds.

163. Although investors could make investments designed to profit from a decline in the index—whether through shorting the index itself, through options or other transactions, Defendants' falsely touted as a superior method - the purchase of their triple leveraged ETFs – where investors could purportedly hedge against losses that investors would suffer from declines in such index.

164. During late 2008 and the first four months of 2009, there were many rapid, substantial declines in the index or benchmark underlying a Direxion ETF. But the corresponding Direxion ETF failed to increase by three times the amount of this decline.

a. Such Moves In The Opposite Direction Were Not Aberration But Inherent Characteristics of Defendants' Bear Triple Leveraged ETFs

165. Critically, Defendants failed to disclose that the foregoing moves in the opposite direction were not "one-off" aberrations or accidents.

166. Furthermore, in the section entitled "Investment Techniques and Polices" in each of the Registration Statements and Prospectuses, Defendants also state: "Direxion's Advisor does

not use fundamental securities analysis to accomplish such correlation." Rather, Rafferty primarily uses statistical and quantitative analysis and as a consequence, if a Fund is performing as designed, the return of the index or benchmark will dictate the return for that Fund.

167. While Defendants make reference to a "statistical analysis" that will determine how investments will be made and what techniques are to be employed by a particular fund, Defendants did not supply the approximate mathematical formulae pursuant to which their triple leveraged funds operated. Employing methods that approximated these formulae, not temporary aberrations, inherently created the risks of catastrophic losses alleged herein. Defendants failed to prominently provide the mathematical formulae concerning the performance of it investments and to meaningfully provide and illustrate examples of how their funds worked depriving investors of information they needed to make informed decisions concerning whether to purchase Defendants' Bear Funds. Defendants' ETFs sought investment results, before fees and expenses, that corresponded to (or approximately to) the following formula:

$$= (1+R_T^{index})^x \cdot e^{\frac{(x-x^2)\sigma^2 T}{2}}$$

168. In this formula, R is the index's return for the holding period, x is the leverage ratio, T is the time period (in years) that the investment is held, and σ is the annualized volatility of the index during the holding period. The formula is a good approximation of the results of Defendants' ETFs for holding periods longer than a few days.

169. This formula has two parts: (1) a return and (2) a multiplier.

170. The return is $(1+R_T^{index})^x$. **For x outside the range zero to on**e, this is never less than 1+xR.

171. The multiplier is $e^{\frac{(x-x^2)\sigma^2 T}{2}}$.

172. In a non-leveraged ETF, the formula is 1+R because the return is raised to the power of 1 and the multiplier is 1. Because the multiplier is 1, a non-leveraged ETF will always track the market regardless of (1) the volatility of the market or (2) the time period over which the investor holds the investment.

173. In a leveraged ETF, the investment objective is never 1+R. The immediate objective is a return of 1+xR, where x is the leverage ratio.

174. The formula requires the steps taken to preserve this objective over a number of days to cause the return to be a function of the index's return to the power of the leveraged ratio, and the multiplier is the mathematical constant e (approximately 2.7183) taken to the following power: $\frac{(x-x^2)\sigma^2 T}{2}$.

175. The multiplier is always less than one. It decreases with increasing time, leverage and index volatility. The longer the holding period and more pronounced the day to day volatility of the underlying index, the more the deviation from the expected correlation.

176. This effect could under certain circumstances be mitigated or overcome by the increasing effect on the return. This is because (1+R)X is greater than (1+xR).

177. Defendants failed to disclose that (and how) the Defendants triple leveraged Bear Funds lose more money in market conditions that are adverse to Defendants' formula. For example, Defendants failed to disclose (a) that the loss will not be related to a multiple in the underlying index but rather to the power of the underlying index; and (b) that, when the day to day volatility of the underlying index is substantial and the underlying index makes a very substantial move in the direction the investor desires, the leveraged fund would not only underperform substantially, but move in the opposite direction from that expected.

178. In the summer of 2009, the Financial Industry National Regulatory Authority ("FINRA") also provided an example of what FINRA considered to be unacceptably unexpected results: "Between December 1, 2008, and April 30, 2009, a particular index gained 2 percent. However, a leveraged ETF seeking to deliver twice that index's daily return fell by 6 percent-and an inverse ETF seeking to deliver twice the inverse of the index's daily return fell by 26 percent."

179. Thus, even when the underlying index was not what Defendants called "flat" or "trendless", the NAV of Defendants' leveraged ETFs could not only substantially deviate by upwards of 20% or more from, but could move in the opposite direction of, its stated daily relationship with its underlying index. It could do within a matter of weeks or months and, at the longest, within one quarter (i.e., 63 trading days).

180. Defendants' Bear Funds, including the FAZ, ERY, BGZ and TZA Funds, experienced such rapid deviations, such opposite movements, and declined in NAV.

b. **Additional Untrue or Misleading Statements Contained In Defendants' Registration Statements and Undisclosed Risks of Loss in Investing in Defendants' Triple Leveraged Bear Funds**

181. Rather than disclosing their mathematical formula, the resulting risks of catastrophic loss even when an investor was correct about the direction of the underlying index, and all the other risks previously alleged, Defendants made a series of statements in their Registration Statements concerning the risks, but which failed to disclose the existence and magnitude of the foregoing risks of investing in a Direxion leveraged ETF.

182. The foregoing undisclosed, inherent risks of large losses were material facts that rendered misleading, in all the circumstances, each of the following statements contained in Defendants' Registration Statements.

183. Further, Direxion's disclosure says nothing about holding periods of less than a year, *e.g.*, two months or six months. Most important, Defendants' failure to disclose the information throughout the Class Period was misleading for another reason: in certain markets in which there was a substantial uptrend or substantial downtrend, the Bear Funds could not just underperform; it would also move very substantially in the opposite direction.

184. Defendants did not tell the investor how to use their matrix in the statement of additional information to extrapolate the effect of volatility on shorter or longer holding periods than one year or the specific methods to do so. Even if this disclosure in the matrix were accurate, it was still misleading for various reasons. It implies that there are no risks of even greater loss if the underlying index declines substantially. Defendants waited to disclose the parameters of the volatility matrix of 100% until April, 2009.

c. Volatility, Leverage, Mathematical Formula and Compounding

185. Defendants also used an evolving series of other qualitative disclosures with undefined terms regarding volatility, leverage, a mathematical formula and compounding.

186. First, the cumulative impacts of these and all other risks on the degree of correlation were apparently all baked into and were not additional to the quantified correlation risks simulated in the graphs in the Risk Disclosure section of the Prospectus. See *supra.* In this context, all the following qualitative disclosures further and misleadingly encouraged investors to hold leveraged Bear Funds for periods of one year or more.

187. Defendants failed to provide in Direxion's prospectuses disclosures on day to day volatility of the underlying benchmark or index. They merely discussed the impact of other factors on volatility.

188. Throughout the Class Period, and prior to April 10, 2009 Defendants failed to adequately disclose facts concerning the inherent and potentially catastrophic risks of the day to day volatility in the underlying index or benchmark.

189. All the foregoing statements were untrue for the reasons previously alleged.

d. Financial Reporters and Commentators, Analysts and Regulators Comment on or React to the Misleading Nature of ETFs

190. On June 11, 2009, the Financial Industry Regulatory Authority ("FINRA") issued Regulatory Notice 09-31 (the "FINRA Notice"). The FINRA Notice cautioned that "**inverse and leveraged ETFs . . . typically are unsuitable for *retail investors* who plan to hold them for longer than one trading session**, particularly in volatile markets." (emphasis added). FINRA also reminded those who deal in non-traditional ETFs that sales materials related to leveraged and inverse ETFs "must be fair and accurate." Thereafter, FINRA spokesman Herb Perone stated: "Exotic ETFs, such as inverse, leveraged and inverse-leveraged ETFs, are extremely complicated and confusing products. . . ."

191. In a June 30, 2009, research report, Morgan Stanley advised that leveraged and leveraged inverse ETFs are "not appropriate for most investors...." In that same research report, Morgan Stanley warned that "As a result of the daily 're-leveraging' or 'deleveraging,' leveraged and leveraged inverse ETFs are likely to significantly underperform point to point returns of their benchmark index in volatile-trendless markets."

192. FINRA issued additional guidance on July 13, 2009 by way of a podcast on its website. FINRA reiterated that most leveraged and inverse ETFs reset each day and are designed to achieve their stated objective on a daily basis - but with the effects of compounding over a longer time frame, results differ significantly.

193. On July 15, 2009, Massachusetts' Secretary of State William Galvin announced that Massachusetts had begun a probe into the sales practices of firms heavily involved in structuring leveraged ETFs. Galvin stated: "[s]ince 2006 these products have become increasingly popular. Yet, due to the daily nature of the leverage employed, there is no guarantee of amplified annual returns and they generally incur greater transaction costs than traditional exchange traded funds."

194. On July 21, 2009, as reported by the Wall Street Journal in an article entitled "Getting Personal, Edward Jones Drops ETFs," Edward Jones & Co. ("Edward Jones") halted the sale of its non-traditional, leveraged ETFs. Edward Jones called ETFs "one of the most misunderstood and potentially dangerous types of ETFs."
(Emphasis supplied).

195. On July 30, 2009, the Wall Street Journal published an article entitled "Warning Signs Up For Leveraged ETFs," in which it was reported that Morgan Stanley Smith Barney is reviewing how it sells leveraged ETFs. The article also observed that Charles Schwab ("Schwab") issued an unusual warning on July 28, 2009 to clients who buy non-traditional ETFs. Schwab offered a strongly worded warning on its website noting that "while there may be limited occasions where a leveraged or inverse ETF may be useful for some types of investors, it is extremely important to understand that, for holding periods longer than a day, these funds may not give you the returns you may be expecting.... Proceed with extreme caution." (Emphasis supplied). And on August 18, 2009 the SEC staff and FINRA issued an alert entitled "Leveraged and Inverse ETFs: Specialized Products with Extra Risks for Buy-And-Hold Investors." The alert was issued "because we believe individual investors may be confused about the

performance objectives of leveraged and inverse exchange-traded funds (ETFs)." Among other things the alert advised investors that before investing in leveraged ETFs investors should ask:

- **What happens if I hold longer than one trading day?** While there may be trading and hedging strategies that justify holding these investments longer than a day, buy-and-hold investors with an intermediate or long-term time horizon should carefully consider whether these ETFs are appropriate for their portfolio. As discussed above, because leveraged and inverse ETFs reset each day, their performance can quickly diverge from the performance of the underlying index or benchmark. ***In other words, it is possible that you could suffer significant losses even if the long term performance of the index showed a gain.***

(emphasis in bold italics added).

196. And in a news release dated August 18, 2009 the North American Securities Administrators Association ("NASAA"), whose members include securities administrators of the 50 United States, "identified real estate investment schemes, leveraged ETFs, private placement offerings, natural resources investments, and Ponzi schemes as the greatest potential threats to investors this year." With respect to leveraged ETFs NASAA stated:

> Leveraged Exchange Traded Funds (ETFs). This relatively new financial product has been offered to individual investors who may not be aware of the risks these funds carry. The funds which trade throughout the day like a stock, use exotic financial instruments, including options and other derivatives, and promise the potential to provide greater than market returns as the value of the underlying assets rise or fall. **Given their volatility, these funds typically are not suitable for most *retail investors*.**

(emphasis added).

197. On August 23, 2009 the Chicago Sun-Times ran a story concerning the SEC's alert. The article entitled "SEC Sounds Rare Investor Alarm" provided in part:

> Something extraordinary happened last week on the investor protection front. Perhaps you missed it. An entire category of investments was deemed dangerous for ordinary people.
>
> Exchange-traded funds that leverage your holdings could lead to outsized losses, the Securities and Exchange Commission said. It said brokers and financial

> advisors should advise people away from them unless they plan to hold them for just a day.
>
> ***
>
> Many people are duped by the ETF label. ETFs are supposed to be simple, a potentially lower-cost alternative to mutual funds, and that's how they started, simply tracking an index or a basket of stocks in a particular industry. Then derivatives changed the game.
>
> Companies introduced ETFs designed to double or triple the gains or losses of the benchmark. Then they introduced funds that would do the same thing in inverse proportions of the benchmark. ...
>
> The problem with leveraged ETFs comes down to the magic and mystery of compounded returns. If you leave your money in a leveraged ETF over time, your return can differ drastically from the fund's stated goal, especially in volatile markets. FINRA gave the example of a five-month period in which the Russell 1000 Financial Services Index gained 8 percent, while an ETF seeking to deliver three times its daily returns fell 53 percent.
>
> Morning Star, the Chicago-based investment analysis provider, has published several pieces warning investors about leveraged ETFs. John Gabriel, ETF analyst at Morning Star, said some large brokerages and financial advisor networks, such as LPL, Edward Jones, UBS and Ameriprise have imposed restrictions on their sale. Morgan Stanley and Wells Fargo are considering restrictions as investors' losses multiply.
>
> "Investor protection is at the forefront of everybody's concerns," Gabriel said. "These firms don't want anything to stain their reputations."

198. On March 25, 2010, the SEC issued a press release, entitled "SEC Staff Evaluating the Use of Derivatives by Funds." In the press release, the SEC announced that its staff was conducting a review of the use of derivatives by ETFs – such as those used by the Bear Funds – to achieve their intended daily investment returns. According to the press release, as part of its review, the SEC staff "determined to defer consideration of exemptive requests under the Investment Company Act to permit ETFs that would make significant investments in derivatives."

199. According to the press release, the SEC staff is considering, among other things, whether "existing prospectus disclosures adequately address the particular risks created by derivatives."

200. An investigation of the adequacy of existing prospectus disclosures would not have been necessary, and the SEC staff would not be investigating the adequacy of the disclosures, if the existing prospectuses and supplements for ETFs (like the Bear Funds) adequately informed investors and brokers that the Bear Fund shares were one-day investments, that purchasers needed to make new investment decisions each day, and of the risk of loss that accompanied holding Bear Fund shares for longer than one day.

201. An April 9, 2010 article written by Michael Shari, a financial journalist who writes periodically for *Barron's*, *Financial Times*, *Fund Management Institutional Investor Magazine* and *Risk Professional*, posted on dailyfinance.com discussed Direxion's leveraged funds:

> "The math in these funds in not logical," warns Jeff Tjornehoj, a research manager at Lipper. "These funds are only for sophisticated investors."
>
> Paul Justice, an analyst who covers ETF's for Morning Star, a fund rating firm in Chicago, has a simple take on how the math has worked in leveraged Direxion funds since they started trading in the midst of the financial crisis.
>
> "It's the dead-cat-bounce phenomenon when you have a crash followed by a rally," he says. "The fact that they [Direxion] even put out a yearly performance chart is misleading."
>
> That's why the SEC advised investors last June not to leave their money in any leveraged ETF's for longer than a single day. It's also why some brokerages have banned their financial advisors from using them, says Justice.
>
> **Split-Second Timing**
>
> So what should an individual investor do with a Direxion leveraged ETF? "The first thing I would say to an individual investor whose primarily focused on a long-term by- and –hold strategy is to not pay attention to our funds and forget they ever saw them," says O'Rourke [Senior Vice President of Direxion].

> To be sure, some do-it-yourselfers buy Direxion leveraged ETFs on platforms like Charles Schwab and Fidelity, says O'Rourke. But the vast majority of investors are large financial institutions that seek out volatility to maximize intraday returns, such as the proprietary trading desks of Wall Street banks, and, of course, hedge funds, he says. They account for the lion's share of the approximately 5 billion dollars in assets currently in 34 funds. These institutions buy the funds in the morning and literally monitor them all day until they find the right moment to withdraw before the market closes. If individuals were to do this, he says, they would have to "quit their day jobs."

202. On June 21, 2010 *Morning Star Advisor* published an article authored by Michael Rawson, article entitled, *"Don't Abuse the Benefits of ETFs."* Rawson commented on the misleading disclosures and representations concerning leveraged and inverse ETFS:

> Probably the most egregious use of the ETF vehicle is embodied in leveraged and inverse products. While on the one hand, ETF providers clearly state that these products attempt only to provide a multiple of their index on a daily basis, their marketing of these products suggest that they can be used for asset-allocation or other non-speculative purposes. What they don't tell you is that the ETF is not the best vehicle for placing levered bets over time frames extending beyond one day. The volatility drag is a tremendous hidden cost which eats into returns. A large number of levered ETFs pairs (one promising 2 times returns and the other negative 2 times returns) have both lost money, for example, Direxion Daily Financial Bull 3X Shares FAS is down about 7% for the year to date, while Direxion Daily Financial Bear 3X Shares FAZ is down 22%. Despite the fact that the S&P 500 is negative for the year to date, ProShares UltraShort S&P500 SDS is down even more. Last year, Massachusetts Secretary of the Commonwealth launched an investigation into the aggressive sales practices of firms marketing leveraged ETFs. Perhaps these funds should come with a black box warning that they are really making a bet on the underlying volatility of the index.

e. Plaintiffs and Class Members were Damaged as a Result of Defendants' Violations of the Securities Act

203. Investors who acquired shares of the Direxion Bear Funds during the Class Period thought that they were protecting their assets by hedging against the unprecedented drop in the financial markets. However, instead of increasing in value as their underlying indices declined, the value of the Direxion Bear Funds also declined, thereby causing financial losses to Plaintiffs and members of the Class even though, directionally speaking, they invested correctly.

204. Moreover, by their very construct, Direxion's Bear Funds, including the FAZ, ERY, BGZ and TZA Funds, actually exacerbated volatility, thus directly contributing to the Funds' failure as an instrument. By bifurcating an index into long side and short side ETFs, Direxion eliminates an "out" for the market maker, causing the market maker to actually hedge in the underliers. With a normal security, all buyers and sellers come to a central meeting place, and buyers can be matched easily with seller, and price discovery is reached. However, when you set up a specifically one-sided instrument, rather than one common product that investors can be either long or short in, an ETF contributes to dislocations. Direxion purposely segments the longs (Bull) and the shorts (Bear), and that, by definition, creates illiquidity. Direxion failed to sufficiently disclose these material facts to Plaintiffs and the Class.

205. Investors in Direxion's Bear Funds, including the FAZ, ERY, BGZ and TZA Funds, were extensively misled. Direxion violated the spirit and purpose of the registration requirements of the Securities Act: "To protect investors by promoting full disclosure of information thought necessary to informed investment decisions."[3] The point of a Registration Statement "should be to inform, not to confuse and challenge the readers' critical wit."[4] The registration provisions of the Securities Act are designed not only to protect immediate recipients of distributed securities but also subsequent purchasers from them.[5]

206. Triple leveraged and inverse Bear Funds such as the FAZ, ERY, BGZ and TZA Funds do not constitute a safe, suitable or predictable hedging strategy for investors to hold their position for longer than one day and Defendants knew the severe consequences of investors

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3 *SEC v. Ralston Purina Co.*, 346 U.S. 119, 124 (1953).

4 *Virginia Bankshares, Inc. v. Sandberg*, 501 U.S. 1083, 1097 (1991).

5 *SEC v. Great American Indus., Inc.*, 407 F.2d 453, 463 (2nd Cir. 1968).

holding their purchases for more than a single day but failed to effectively disclose the consequences to them through the present date.

207. Direxion's Registration Statements failed to disclose the material facts set forth in this Complaint necessary to render the statements made in its Registration Statements not misleading to Plaintiffs and the Class.

208. For most, if not all, retail investors who purchased Bear Fund shares, the prospectus disclosures were not sufficient to protect them against loss in part because they did ***not*** receive a prospectus when they made their purchases and did not receive a prospectus until ***after*** the one-day holding period for the Bear Fund shares already expired.

209. Under Rule 173 of the SEC, brokers are not required to provide a prospectus until after five days after Class members purchased their Bear Fund shares. See 17 C.F.R. ¶ 230.173(a) (sale complete on settlement; prospectus must be delivered two days after completion of sale).

210. Thus, even if the prospectuses had disclosed adequately that Bear Fund shares were one-day investments, that purchasers needed to make new investment decisions each day, and the risk of loss that accompanied holding Bear Fund shares for longer than one day (which they did not in any event), such disclosure would have been ineffective because the holding period for the Bear Fund shares expired ***before*** investors received a prospectus for the securities.

f. **Loss Causation**

211. Shares of each Bear Fund have traded throughout the Class Period at market prices close to the NAV of the funds' underlying investments.

212. As alleged above, each Bear Fund is and was comprised of derivative securities that must be rebalanced every day to achieve daily results that corresponded to three times the

inverse performance of that fund's particular benchmark index. As the underlying basket of derivative securities comprising each Bear Fund changed from day to day, the Bear Funds were new and materially different investments every day throughout the Class Period and were priced differently accordingly.

213. Because the Prospectuses issued and disseminated by Defendants throughout the Class Period failed to disclose or adequately disclose the mechanics of rebalancing and the risk to members of the Class of holding those shares for more than one day, Class members did not understand the one-day nature of their investments, the need to make new investment decisions each day, and the risk of loss that accompanied holding Bear Fund shares for longer than one day as the underlying basket of derivative securities comprising each fund and the nature of the Class members' investments changed from day to day. Had they known the one-day nature of their investments, the need to make daily investment decisions, and the risk of loss that accompanied holding Bear Fund shares for longer than one day, Class members would not have purchased Bear Fund shares or would not have done so at the prices they paid for the shares.

214. Because they were not informed or adequately informed of the one-day nature of their investments, the need to make daily investment decisions, and the risk of loss that accompanied holding Bear Fund shares for longer than one day, members of the Class did not understand they were required to make, and consequently did not make, new investment decisions each day they held Bear Fund shares purchased during the Class Period.

215. As a further result, members of the Class, who did not make daily investment decisions, held Bear Fund shares that were materially different investments than their original investments when they purchased Bear Fund shares.

216. The risk of loss materialized when each member of the Class, having not made daily investment decisions, held his or her Bear Fund shares for periods longer than one day and the nature of their investments changed.

217. As alleged above, over those holding periods longer than one day, the prices of the Bear Fund shares did not provide their expected investment returns, such that Class members incurred actual losses (rather than gains) over the longer holding periods even though the underlying benchmarks also declined (which should have yielded profits for the Bear Fund shareholders).

218. The losses suffered by members of the Class were and are directly attributable to the fact that they did not rebalance their investments in the Bear Funds each day because there were not informed or adequately informed of the need to do so.

COUNT I
AS AND FOR A FIRST CLAIM
(Violations of § 11 of the 1933 Act Against All Defendants)

219. This Claim is brought pursuant to Section 11 of the 1933 Act, 15 U.S.C. §§ 77k, on behalf of the Class, against all Defendants.

220. Plaintiff incorporates by reference the above paragraphs, as if set forth herein. This Count is asserted against all Defendants.

221. Direxion Shares is the issuer of the Bear Funds, including the FAZ, ERY, BGZ and TZA Funds shares sold via the Registration Statement. The Individual Defendants are signatories or authorizers of the Registration Statement.

222. Direxion Shares is absolutely liable for the material misstatements in and omissions from the Registration Statement. The other Defendants owed purchasers of the shares the duty to make a reasonable investigation of the statements contained in the Registration

Statement to ensure that said statements were true and that there was no omission to state any material fact required to be stated in order to make the statements contained therein not misleading. These Defendants knew or, in the exercise of reasonable care, should have known of the material misstatements and omissions contained in the Registration Statement as set forth herein. None of these Defendants made a reasonable investigation or possessed reasonable grounds for the belief that statements contained in the Registration Statement and Prospectus were true or that there was not any omission of material fact necessary to make the statements made therein not misleading.

223. As signatories to, and/or authorizers of, the Registration Statement, the individual Defendants owed the purchasers of it Bear Funds, including the FAZ, ERY, BGZ and TZA Funds shares, and including Plaintiffs and the Class, the duty to make a reasonable and diligent investigation of the statements contained in the Registration Statement at the time that it became effective, to ensure that said statements were true and that there was no omission to state a material fact required to be stated in order to make the statements contained therein not misleading. Defendants knew or, in the exercise of reasonable care, should have known of the material misstatements and omissions contained in the Registration Statement and Prospectus as set forth herein. As such, Defendants are liable to Plaintiffs and the Class.

224. By reason of the conduct herein alleged, each Defendant violated, and/or controlled a person who violated, Section 11 of the Securities Act. As a direct and proximate result of Defendants' wrongful conduct, the market price for its Bear Funds, including the FAZ, ERY, BGZ, and TZA Funds shares was artificially inflated, and Plaintiffs and the Class suffered substantial damages in connection with the purchase thereof.

225. Plaintiffs and the Class all purchased Bear Funds, including the FAZ Fund shares issued pursuant and/or traceable to the Registration Statement.

226. Plaintiffs and other members of the Class purchased or otherwise acquired their FAZ Fund shares without knowledge of the untruths or omissions alleged herein. Plaintiffs and the other members of the Class were thus damaged by Defendants' misconduct and by the material misstatements and omissions in the Registration Statement.

227. At the time of their purchases of FAZ, ERY, BGZ and TZA Fund shares, Plaintiffs and other members of the Class were without knowledge of the facts concerning the wrongful conduct alleged herein and could not have reasonably discovered those facts through the present. Less than one year has elapsed from the time that Plaintiffs discovered or reasonably could have discovered the facts upon which this Complaint is based to the time that Plaintiff filed this Complaint. Less than three years has elapsed between the time that the securities upon which this Count is brought were offered to the public and the time Plaintiff filed this Complaint.

COUNT II

Violations of § 15 of the Securities Act Against the Individual Defendants and Rafferty

228. Plaintiffs incorporate by reference the above paragraphs, as if set forth herein. This Count is asserted against the Individual Defendants and Rafferty.

229. Each of the Individual Defendants named herein and Rafferty acted as a controlling person of Direxion shares within the meaning of Section 15 of the Securities Act. The Individual Defendants and Rafferty were each trustees or officers and/or directors and/or otherwise control persons of Direxion Shares charged within the legal responsibility of overseeing its operations. Each controlling person had the power to influence and exercised the

same to cause his controlled person to engage in the unlawful acts and conduct complained of herein.

230. By reason of such conduct, the Defendants named in this Count are liable pursuant to Section 15 of the Securities Act. As a direct and proximate result of their wrongful conduct, Plaintiffs and the other members of the Class suffered damages in connection with their purchases of shares of the Bear Funds, including the FAZ, ERY, BGZ and TZA Funds.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief and judgment, as follows:

A. Determining that this action is a proper class action and certifying Plaintiff as class representatives under Rule 23 of the Federal Rules of Civil Procedure;

B. Awarding compensatory damages in favor of Plaintiff and the other Class members against all Defendants, jointly and severally, for all damages sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

C. Awarding punitive damages to Plaintiffs and members of the Class;

D. Awarding Plaintiff and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees;

E. For a declaratory judgment that Defendants' Registration Statements were false and misleading;

F. Awarding damages in the form of rescission; and

G. Such equitable/injunctive or other relief as deemed appropriate by the Court.

JURY TRIAL DEMAND

Pursuant to Federal Rule of Civil Procedure 38(a), Plaintiffs and the class hereby demand a trial by jury of all issues so triable.

Dated: November 23, 2010

Respectfully submitted,

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Oklahoma City, OK 73120

Exhibit 1

FAZ

EXHIBIT 1

Plaintiffs Certification of Investment of
Direxion Daily Financial Bear 3X Shares [NYSE: FAZ]

I, Evan Stoopler, hereby certify that the following is true and correct to the best of my knowledge, information and belief:

1. I have reviewed the Complaint in this action and authorize the filing of this Certification.

2. If chosen, I am willing to serve as a representative party on behalf of the class (the "Class") as defined in the Complaint, including providing testimony at deposition and trial (if necessary). I am willing to participate on an executive committee of shareholders.

3. Plaintiff's transaction in Direxion Daily Financial Bear 3X Shares [NYSE: FAZ] security that is the subject of this action is:

# SHARES PURCHASED	DATE PURCHASED	PRICE PER SHARE	IF SOLD, # OF SHARES SOLD	DATE SOLD (if applicable)	PER SHARE SOLD PRICE

(continue on blank piece of paper, if necessary)

4. I did not purchase these securities at the direction of my counsel, or in order to participate in a lawsuit under the Securities Exchange Act of 1934.

5. During the three-year period preceding the date of the Certification, I have not sought to serve, nor have I served, as a representative to any party or on behalf of any class in any action arising under the Securities Exchange Act of 1934.

6. I will not accept any payment if chosen to serve as a representative party on behalf of the Class beyond my pro rata share of an award to the Class, or as otherwise ordered and approved by the Court.

Signed under penalty of perjury, this 11 day of SEPTEMBER, 2009.

[signature] Signature

Address

Evan Stoopler
Name (please print)

City

State: ______ Zip: ______

Telephone Number

Cell Number

E-Mail Address

Return to:
William B. Federman
FEDERMAN & SHERWOOD
10205 North Pennsylvania Avenue
Oklahoma City, OK 73120
(405) 235-1560/Fax (405) 239-2112
Email: wbf@federmanlaw.com
Website: www.federmanlaw.com

Direxion Daily Financial Bear 3X Shares

PURCHASES

Date	Shares	Unit Price	Total Cost	Total Purchases
1/22/2009	4,000	$ 68.05354	$ 272,214.16	$ 32,094,528.86
1/23/2009	5,000	$ 66.21140	$ 331,057.00	
1/23/2009	3,000	$ 61.17196	$ 183,515.88	
1/28/2009	5,000	$ 44.67380	$ 223,369.00	
1/28/2009	2,500	$ 44.62120	$ 111,553.00	
1/28/2009	2,500	$ 44.50840	$ 111,271.00	
1/28/2009	5,000	$ 44.67380	$ 223,369.00	
1/28/2009	2,500	$ 44.62120	$ 111,553.00	
1/28/2009	2,500	$ 44.50840	$ 111,271.00	
2/2/2009	87	$ 40.00000	$ 3,480.00	
2/2/2009	100	$ 40.05900	$ 4,005.90	
2/2/2009	108	$ 44.19970	$ 4,773.57	
2/2/2009	200	$ 39.81500	$ 7,963.00	
2/2/2009	300	$ 39.77500	$ 11,932.50	
2/2/2009	400	$ 39.87000	$ 15,948.00	
2/2/2009	500	$ 40.06000	$ 20,030.00	
2/2/2009	740	$ 39.80000	$ 29,452.00	
2/2/2009	1,000	$ 47.81600	$ 47,816.00	
2/2/2009	2,673	$ 40.08000	$ 107,133.84	
2/2/2009	3,000	$ 45.29000	$ 135,870.00	
2/2/2009	3,692	$ 44.21000	$ 163,223.32	
2/2/2009	7,000	$ 48.00000	$ 336,000.00	
2/11/2009	3,000	$ 44.35990	$ 133,079.70	
2/11/2009	8,000	$ 45.21000	$ 361,680.00	
2/24/2009	5,000	$ 78.59835	$ 392,991.75	
2/24/2009	18,000	$ 63.50865	$ 1,143,155.70	
2/24/2009	5,000	$ 59.89680	$ 299,484.00	
2/25/2009	5,000	$ 55.51580	$ 277,579.00	
2/25/2009	3,000	$ 54.00900	$ 162,027.00	
2/25/2009	3,000	$ 51.57240	$ 154,717.20	
2/27/2009	100	$ 55.55960	$ 5,555.96	
2/27/2009	100	$ 55.55990	$ 5,555.99	

SALES

Date	Shares	Unit Price	Proceeds	Total Proceeds
1/22/2009	4,000	$ 69.30200	$ 277,208.00	$ 22,452,242.50
1/23/2009	5,000	$ 66.98120	$ 334,906.00	
1/23/2009	3,000	$ 62.97900	$ 188,937.00	
1/29/2009	5,000	$ 45.09830	$ 225,491.50	
1/29/2009	5,000	$ 44.32260	$ 221,613.00	
1/29/2009	5,000	$ 45.09830	$ 225,491.50	
1/29/2009	5,000	$ 44.32260	$ 221,613.00	
2/3/2009	90	$ 45.20010	$ 4,068.01	
2/3/2009	7,700	$ 46.20000	$ 355,740.00	
2/3/2009	4,200	$ 44.89000	$ 188,538.00	
2/3/2009	2,300	$ 45.19000	$ 103,937.00	
2/3/2009	1,210	$ 45.24500	$ 54,746.45	
2/3/2009	800	$ 44.88000	$ 35,904.00	
2/3/2009	700	$ 45.25000	$ 31,675.00	
2/3/2009	650	$ 45.20000	$ 29,380.00	
2/3/2009	500	$ 45.24000	$ 22,620.00	
2/3/2009	500	$ 45.20000	$ 22,600.00	
2/3/2009	400	$ 45.21000	$ 18,084.00	
2/3/2009	400	$ 45.15000	$ 18,060.00	
2/3/2009	300	$ 46.21000	$ 13,863.00	
2/3/2009	250	$ 45.13500	$ 11,283.75	
2/13/2009	20	$ 46.70000	$ 934.00	
2/13/2009	3,400	$ 46.64000	$ 158,576.00	
2/13/2009	3,000	$ 46.71500	$ 140,145.00	
2/13/2009	2,431	$ 46.65000	$ 113,406.15	
2/13/2009	1,649	$ 46.67000	$ 76,958.83	
2/13/2009	500	$ 46.66000	$ 23,330.00	
2/23/2009	5,000	$ 69.93880	$ 349,694.00	
2/23/2009	2,000	$ 71.37700	$ 142,754.00	
2/23/2009	2,000	$ 71.51400	$ 143,028.00	
2/23/2009	1,000	$ 70.96400	$ 70,964.00	
2/23/2009	3,000	$ 73.63233	$ 220,896.99	

Direxion Daily Financial Bear 3X Shares

2/27/2009	100	$ 55.55950	$ 5,555.95
2/27/2009	167	$ 55.56000	$ 9,278.52
2/27/2009	292	$ 55.62000	$ 16,241.04
2/27/2009	300	$ 57.32000	$ 17,196.00
2/27/2009	600	$ 55.57000	$ 33,342.00
2/27/2009	600	$ 57.31000	$ 34,386.00
2/27/2009	1,000	$ 57.37000	$ 57,370.00
2/27/2009	2,641	$ 55.61000	$ 146,866.01
2/27/2009	8,000	$ 57.43000	$ 459,440.00
2/27/2009	10,000	$ 56.16000	$ 561,600.00
2/27/2009	1,100	$ 63.79000	$ 70,169.00
2/27/2009	1,700	$ 63.75000	$ 108,375.00
2/27/2009	3,720	$ 76.07000	$ 282,980.40
2/27/2009	4,700	$ 75.16000	$ 353,252.00
2/27/2009	16,000	$ 63.87000	$ 1,021,920.00
2/27/2009	250	$ 57.49000	$ 14,372.50
2/27/2009	262	$ 56.24000	$ 14,734.88
2/27/2009	2,000	$ 56.23000	$ 112,460.00
2/27/2009	2,738	$ 56.26000	$ 154,039.88
2/27/2009	4,750	$ 57.52000	$ 273,220.00
2/27/2009	100	$ 77.56000	$ 7,756.00
2/27/2009	200	$ 77.57000	$ 15,514.00
2/27/2009	400	$ 77.58000	$ 31,032.00
2/27/2009	1,100	$ 77.49000	$ 85,239.00
2/27/2009	2,200	$ 77.55000	$ 170,610.00
2/27/2009	100	$ 63.76000	$ 6,376.00
2/27/2009	100	$ 76.04000	$ 7,604.00
2/27/2009	180	$ 76.01960	$ 13,683.53
2/27/2009	300	$ 75.11000	$ 22,533.00
2/27/2009	1,100	$ 63.77000	$ 70,147.00
3/2/2009	4,000	$ 50.17000	$ 200,680.00
3/2/2009	260	$ 54.99000	$ 14,297.40
3/2/2009	100	$ 55.00000	$ 5,500.00
3/2/2009	1,600	$ 55.02000	$ 88,032.00

2/23/2009	3,000	$ 74.61167	$ 223,835.01
2/23/2009	2,000	$ 75.55300	$ 151,106.00
2/24/2009	5,000	$ 79.51151	$ 397,557.55
2/24/2009	5,000	$ 61.49660	$ 307,483.00
2/25/2009	3,000	$ 53.09683	$ 159,290.49
2/25/2009	3,000	$ 53.09400	$ 159,282.00
2/25/2009	3,000	$ 53.31133	$ 159,933.99
2/25/2009	2,000	$ 52.88530	$ 105,770.60
2/26/2009	5,800	$ 74.25000	$ 430,650.00
2/26/2009	2,544	$ 70.82000	$ 180,166.08
2/26/2009	2,350	$ 71.51010	$ 168,048.74
2/26/2009	2,000	$ 72.34010	$ 144,680.20
2/26/2009	1,650	$ 71.54000	$ 118,041.00
2/26/2009	1,600	$ 70.85000	$ 113,360.00
2/26/2009	1,200	$ 70.74000	$ 84,888.00
2/26/2009	900	$ 70.72000	$ 63,648.00
2/26/2009	700	$ 70.75000	$ 49,525.00
2/26/2009	600	$ 70.73000	$ 42,438.00
2/26/2009	256	$ 70.73040	$ 18,106.98
2/26/2009	100	$ 74.27020	$ 7,427.02
2/26/2009	100	$ 74.27000	$ 7,427.00
2/26/2009	100	$ 70.73050	$ 7,073.05
2/26/2009	100	$ 70.71500	$ 7,071.50
2/27/2009	3,900	$ 58.37010	$ 227,643.39
2/27/2009	800	$ 58.37000	$ 46,696.00
2/27/2009	300	$ 58.38000	$ 17,514.00
2/27/2009	3,800	$ 78.21000	$ 297,198.00
2/27/2009	200	$ 78.32000	$ 15,664.00
2/27/2009	100	$ 58.53000	$ 5,853.00
2/27/2009	50	$ 57.99000	$ 2,899.50
2/27/2009	3,000	$ 57.91000	$ 173,730.00
2/27/2009	2,900	$ 58.50000	$ 169,650.00
2/27/2009	1,950	$ 57.90000	$ 112,905.00
2/27/2009	600	$ 58.64000	$ 35,184.00

Direxion Daily Financial Bear 3X Shares

3/2/2009	2,730	$ 55.03000	$ 150,231.90
3/2/2009	1,400	$ 55.04000	$ 77,056.00
3/2/2009	3,000	$ 55.05000	$ 165,150.00
3/2/2009	100	$ 55.05970	$ 5,505.97
3/2/2009	810	$ 55.06000	$ 44,598.60
3/2/2009	200	$ 52.25980	$ 10,451.96
3/2/2009	50	$ 52.25990	$ 2,613.00
3/2/2009	400	$ 52.28990	$ 20,915.96
3/2/2009	1,700	$ 52.29000	$ 88,893.00
3/2/2009	300	$ 52.27000	$ 15,681.00
3/2/2009	200	$ 52.25000	$ 10,450.00
3/2/2009	400	$ 52.26000	$ 20,904.00
3/2/2009	1,750	$ 52.28000	$ 91,490.00
3/2/2009	100	$ 53.04000	$ 5,304.00
3/2/2009	200	$ 53.01000	$ 10,602.00
3/2/2009	400	$ 53.00500	$ 21,202.00
3/2/2009	1,100	$ 53.15000	$ 58,465.00
3/2/2009	1,300	$ 53.19000	$ 69,147.00
3/2/2009	300	$ 53.42000	$ 16,026.00
3/2/2009	1,000	$ 53.45000	$ 53,450.00
3/2/2009	600	$ 53.44000	$ 32,064.00
3/2/2009	500	$ 51.11000	$ 25,555.00
3/2/2009	100	$ 51.04930	$ 5,104.93
3/2/2009	2,600	$ 51.02000	$ 132,652.00
3/2/2009	1,800	$ 51.05000	$ 91,890.00
3/2/2009	400	$ 52.75000	$ 21,100.00
3/2/2009	1,875	$ 52.78000	$ 98,962.50
3/2/2009	1,525	$ 52.76000	$ 80,459.00
3/2/2009	100	$ 52.74000	$ 5,274.00
3/2/2009	1,100	$ 52.77000	$ 58,047.00
3/2/2009	100	$ 52.63990	$ 5,263.99
3/2/2009	1,900	$ 52.64000	$ 100,016.00
3/2/2009	50	$ 52.25990	$ 2,613.00
3/2/2009	100	$ 51.04930	$ 5,104.93

2/27/2009	600	$ 58.65000	$ 35,190.00
2/27/2009	400	$ 58.59000	$ 23,436.00
2/27/2009	200	$ 58.61000	$ 11,722.00
2/27/2009	200	$ 58.51000	$ 11,702.00
2/27/2009	3,400	$ 79.18000	$ 269,212.00
2/27/2009	3,200	$ 79.16010	$ 253,312.32
2/27/2009	1,000	$ 79.19000	$ 79,190.00
2/27/2009	400	$ 79.16040	$ 31,664.16
2/27/2009	300	$ 79.16000	$ 23,748.00
2/27/2009	300	$ 79.06000	$ 23,718.00
2/27/2009	200	$ 79.03000	$ 15,806.00
2/27/2009	100	$ 79.16050	$ 7,916.05
2/27/2009	100	$ 79.03150	$ 7,903.15
3/2/2009	4,000	$ 54.11080	$ 216,443.20
3/2/2009	100	$ 60.01030	$ 6,001.03
3/2/2009	500	$ 60.02190	$ 30,010.95
3/2/2009	500	$ 60.06050	$ 30,030.25
3/2/2009	100	$ 60.06010	$ 6,006.01
3/2/2009	2,039	$ 60.07000	$ 122,482.73
3/2/2009	100	$ 60.04500	$ 6,004.50
3/2/2009	2,694	$ 60.01000	$ 161,666.94
3/2/2009	1,500	$ 60.00000	$ 90,000.00
3/2/2009	160	$ 60.00500	$ 9,600.80
3/2/2009	1,182	$ 60.03000	$ 70,955.46
3/2/2009	1,321	$ 60.02000	$ 79,286.42
3/2/2009	500	$ 60.04000	$ 30,020.00
3/2/2009	900	$ 60.06000	$ 54,054.00
3/2/2009	400	$ 60.05000	$ 24,020.00
3/2/2009	400	$ 59.91000	$ 23,964.00
3/2/2009	1,604	$ 59.85000	$ 95,999.40
3/2/2009	1,500	$ 53.91000	$ 80,865.00
3/2/2009	1,300	$ 53.88000	$ 70,044.00
3/2/2009	1,100	$ 53.89000	$ 59,279.00
3/2/2009	200	$ 53.87000	$ 10,774.00

Direxion Daily Financial Bear 3X Shares

3/2/2009	100	$ 53.04000	$	5,304.00
3/2/2009	100	$ 55.00000	$	5,500.00
3/2/2009	100	$ 55.05970	$	5,505.97
3/2/2009	200	$ 52.25000	$	10,450.00
3/2/2009	200	$ 52.25980	$	10,451.96
3/2/2009	200	$ 53.01000	$	10,602.00
3/2/2009	260	$ 54.99000	$	14,297.40
3/2/2009	300	$ 52.27000	$	15,681.00
3/2/2009	300	$ 53.42000	$	16,026.00
3/2/2009	400	$ 52.26000	$	20,904.00
3/2/2009	400	$ 52.28990	$	20,915.96
3/2/2009	400	$ 53.00500	$	21,202.00
3/2/2009	500	$ 51.11000	$	25,555.00
3/2/2009	600	$ 53.44000	$	32,064.00
3/2/2009	810	$ 55.06000	$	44,598.60
3/2/2009	1,000	$ 53.45000	$	53,450.00
3/2/2009	1,100	$ 53.15000	$	58,465.00
3/2/2009	1,300	$ 53.19000	$	69,147.00
3/2/2009	1,400	$ 55.04000	$	77,056.00
3/2/2009	1,600	$ 55.02000	$	88,032.00
3/2/2009	1,700	$ 52.29000	$	88,893.00
3/2/2009	1,750	$ 52.28000	$	91,490.00
3/2/2009	1,800	$ 51.05000	$	91,890.00
3/2/2009	2,600	$ 51.02000	$	132,652.00
3/2/2009	2,730	$ 55.03000	$	150,231.90
3/2/2009	3,000	$ 55.05000	$	165,150.00
3/3/2009	19	$ 50.40000	$	957.60
3/3/2009	225	$ 50.41000	$	11,342.25
3/3/2009	100	$ 50.41930	$	5,041.93
3/3/2009	100	$ 50.41950	$	5,041.95
3/3/2009	1,700	$ 50.42000	$	85,714.00
3/3/2009	100	$ 50.44000	$	5,044.00
3/3/2009	100	$ 50.43970	$	5,043.97
3/3/2009	100	$ 50.43980	$	5,043.98

3/2/2009	200	$ 53.85000	$	10,770.00
3/2/2009	123	$ 53.81000	$	6,618.63
3/2/2009	5,577	$ 53.80000	$	300,042.60
3/2/2009	15	$ 54.72500	$	820.88
3/2/2009	200	$ 54.75500	$	10,951.00
3/2/2009	685	$ 54.99500	$	37,671.58
3/2/2009	1,200	$ 55.01000	$	66,012.00
3/2/2009	20	$ 55.16500	$	1,103.30
3/2/2009	300	$ 55.16000	$	16,548.00
3/2/2009	818	$ 55.15000	$	45,112.70
3/2/2009	2,000	$ 55.29000	$	110,580.00
3/2/2009	2,000	$ 55.30500	$	110,610.00
3/2/2009	59	$ 55.28000	$	3,261.52
3/2/2009	126	$ 55.26000	$	6,962.76
3/2/2009	1,000	$ 55.22000	$	55,220.00
3/2/2009	300	$ 55.16000	$	16,548.00
3/2/2009	617	$ 55.14000	$	34,021.38
3/2/2009	100	$ 55.08000	$	5,508.00
3/2/2009	200	$ 55.13000	$	11,026.00
3/2/2009	200	$ 55.25000	$	11,050.00
3/2/2009	1,000	$ 55.05000	$	55,050.00
3/2/2009	2,765	$ 55.04000	$	152,185.60
3/2/2009	650	$ 55.06000	$	35,789.00
3/2/2009	745	$ 55.19000	$	41,116.55
3/2/2009	818	$ 55.15000	$	45,112.70
3/2/2009	745	$ 55.19000	$	41,116.55
3/2/2009	685	$ 54.99500	$	37,671.58
3/2/2009	650	$ 55.06000	$	35,789.00
3/2/2009	1,321	$ 60.02000	$	79,286.42
3/2/2009	1,182	$ 60.03000	$	70,955.46
3/2/2009	1,300	$ 53.88000	$	70,044.00
3/2/2009	1,200	$ 55.01000	$	66,012.00
3/2/2009	1,100	$ 53.89000	$	59,279.00
3/2/2009	1,000	$ 55.22000	$	55,220.00

Direxion Daily Financial Bear 3X Shares

3/3/2009	2,000	$ 50.45000	$ 100,900.00
3/3/2009	800	$ 50.47000	$ 40,376.00
3/3/2009	1,100	$ 50.48000	$ 55,528.00
3/3/2009	1,256	$ 50.49000	$ 63,415.44
3/3/2009	2,400	$ 50.53000	$ 121,272.00
3/3/2009	1,300	$ 50.54000	$ 65,702.00
3/3/2009	300	$ 50.59000	$ 15,177.00
3/3/2009	100	$ 50.56000	$ 5,056.00
3/3/2009	300	$ 50.57000	$ 15,171.00
3/3/2009	100	$ 49.01960	$ 4,901.96
3/3/2009	400	$ 49.02000	$ 19,608.00
3/3/2009	35	$ 49.01000	$ 1,715.35
3/3/2009	700	$ 48.97000	$ 34,279.00
3/3/2009	200	$ 48.90000	$ 9,780.00
3/3/2009	56	$ 48.84000	$ 2,735.04
3/3/2009	475	$ 48.83000	$ 23,194.25
3/3/2009	3,034	$ 48.86000	$ 148,241.24
3/3/2009	50	$ 47.58500	$ 2,379.25
3/3/2009	100	$ 47.49970	$ 4,749.97
3/3/2009	400	$ 47.49980	$ 18,999.92
3/3/2009	100	$ 47.50980	$ 4,750.98
3/3/2009	181	$ 47.50990	$ 8,599.29
3/3/2009	219	$ 47.47000	$ 10,395.93
3/3/2009	600	$ 47.64000	$ 28,584.00
3/3/2009	600	$ 47.65000	$ 28,590.00
3/3/2009	600	$ 47.61000	$ 28,566.00
3/3/2009	100	$ 47.60000	$ 4,760.00
3/3/2009	200	$ 47.59000	$ 9,518.00
3/3/2009	300	$ 47.55980	$ 14,267.94
3/3/2009	200	$ 47.55990	$ 9,511.98
3/3/2009	100	$ 47.53960	$ 4,753.96
3/3/2009	100	$ 47.54000	$ 4,754.00
3/3/2009	300	$ 47.53000	$ 14,259.00
3/3/2009	400	$ 47.63980	$ 19,055.92

3/2/2009	1,000	$ 55.05000	$ 55,050.00
3/2/2009	900	$ 60.06000	$ 54,054.00
3/2/2009	2,765	$ 55.04000	$ 152,185.60
3/2/2009	2,039	$ 60.07000	$ 122,482.73
3/2/2009	2,000	$ 55.30500	$ 110,610.00
3/2/2009	2,000	$ 55.29000	$ 110,580.00
3/2/2009	1,604	$ 59.85000	$ 95,999.40
3/2/2009	1,500	$ 60.00000	$ 90,000.00
3/2/2009	1,500	$ 53.91000	$ 80,865.00
3/2/2009	5,577	$ 53.80000	$ 300,042.60
3/2/2009	2,694	$ 60.01000	$ 161,666.94
3/2/2009	100	$ 55.08000	$ 5,508.00
3/2/2009	59	$ 55.28000	$ 3,261.52
3/2/2009	20	$ 55.16500	$ 1,103.30
3/2/2009	15	$ 54.72500	$ 820.88
3/2/2009	200	$ 53.85000	$ 10,770.00
3/2/2009	160	$ 60.00500	$ 9,600.80
3/2/2009	126	$ 55.26000	$ 6,962.76
3/2/2009	123	$ 53.81000	$ 6,618.63
3/2/2009	100	$ 60.06010	$ 6,006.01
3/2/2009	100	$ 60.04500	$ 6,004.50
3/2/2009	100	$ 60.01030	$ 6,001.03
3/2/2009	300	$ 55.16000	$ 16,548.00
3/2/2009	300	$ 55.16000	$ 16,548.00
3/2/2009	200	$ 55.25000	$ 11,050.00
3/2/2009	200	$ 55.13000	$ 11,026.00
3/2/2009	200	$ 54.75500	$ 10,951.00
3/2/2009	200	$ 53.87000	$ 10,774.00
3/2/2009	617	$ 55.14000	$ 34,021.38
3/2/2009	500	$ 60.60500	$ 30,302.50
3/2/2009	500	$ 60.04000	$ 30,020.00
3/2/2009	500	$ 60.02190	$ 30,010.95
3/2/2009	400	$ 60.05000	$ 24,020.00
3/2/2009	400	$ 59.91000	$ 23,964.00

Direxion Daily Financial Bear 3X Shares

3/3/2009	200	$	47.63990	$	9,527.98
3/3/2009	400	$	47.63000	$	19,052.00
3/3/2009	300	$	47.62000	$	14,286.00
3/3/2009	100	$	47.65980	$	4,765.98
3/3/2009	700	$	47.66000	$	33,362.00
3/3/2009	8,750	$	47.67000	$	417,112.50
3/3/2009	5,000	$	50.80000	$	254,000.00
3/3/2009	100	$	49.14990	$	4,914.99
3/3/2009	100	$	49.15000	$	4,915.00
3/3/2009	500	$	49.14000	$	24,570.00
3/3/2009	400	$	49.17000	$	19,668.00
3/3/2009	1,900	$	49.16000	$	93,404.00
3/3/2009	100	$	47.68990	$	4,768.99
3/3/2009	545	$	47.69000	$	25,991.05
3/3/2009	248	$	47.70000	$	11,829.60
3/3/2009	5,107	$	47.71000	$	243,654.97
3/3/2009	19	$	50.40000	$	957.60
3/3/2009	35	$	49.01000	$	1,715.35
3/3/2009	50	$	47.58500	$	2,379.25
3/3/2009	56	$	48.84000	$	2,735.04
3/3/2009	100	$	47.49970	$	4,749.97
3/3/2009	100	$	47.50980	$	4,750.98
3/3/2009	100	$	47.53960	$	4,753.96
3/3/2009	100	$	47.54000	$	4,754.00
3/3/2009	100	$	47.60000	$	4,760.00
3/3/2009	100	$	47.65980	$	4,765.98
3/3/2009	100	$	49.01960	$	4,901.96
3/3/2009	100	$	50.41930	$	5,041.93
3/3/2009	100	$	50.41950	$	5,041.95
3/3/2009	100	$	50.43970	$	5,043.97
3/3/2009	100	$	50.43980	$	5,043.98
3/3/2009	100	$	50.44000	$	5,044.00
3/3/2009	100	$	50.56000	$	5,056.00
3/3/2009	181	$	47.50990	$	8,599.29

3/2/2009	50	$	57.23000	$	2,861.50
3/2/2009	4,068	$	57.20000	$	232,689.60
3/2/2009	1,700	$	54.57000	$	92,769.00
3/2/2009	1,500	$	54.60000	$	81,900.00
3/2/2009	700	$	54.67000	$	38,269.00
3/2/2009	700	$	54.63000	$	38,241.00
3/2/2009	482	$	57.35000	$	27,642.70
3/2/2009	500	$	54.55030	$	27,275.15
3/2/2009	400	$	54.56000	$	21,824.00
3/2/2009	400	$	54.55040	$	21,820.16
3/2/2009	300	$	57.15000	$	17,145.00
3/2/2009	300	$	54.60500	$	16,381.50
3/2/2009	300	$	54.55020	$	16,365.06
3/2/2009	100	$	57.18000	$	5,718.00
3/2/2009	100	$	54.62000	$	5,462.00
3/2/2009	100	$	54.61000	$	5,461.00
3/2/2009	100	$	54.55010	$	5,455.01
3/2/2009	100	$	54.55000	$	5,455.00
3/2/2009	100	$	54.42500	$	5,442.50
3/3/2009	13,800	$	51.24000	$	707,112.00
3/3/2009	12,151	$	49.90000	$	606,334.90
3/3/2009	2,600	$	51.25000	$	133,250.00
3/3/2009	1,700	$	49.90020	$	84,830.34
3/3/2009	200	$	51.26000	$	10,252.00
3/3/2009	100	$	49.90030	$	4,990.03
3/3/2009	500	$	49.90500	$	24,952.50
3/3/2009	400	$	51.25010	$	20,500.04
3/3/2009	7,700	$	51.27000	$	394,779.00
3/3/2009	96	$	51.23050	$	4,918.13
3/3/2009	3,200	$	49.71000	$	159,072.00
3/3/2009	700	$	49.75000	$	34,825.00
3/3/2009	500	$	49.74000	$	24,870.00
3/3/2009	400	$	49.71020	$	19,884.08
3/3/2009	300	$	49.76000	$	14,928.00

Direxion Daily Financial Bear 3X Shares

3/3/2009	200	$ 47.55990	$ 9,511.98
3/3/2009	200	$ 47.59000	$ 9,518.00
3/3/2009	200	$ 47.63990	$ 9,527.98
3/3/2009	200	$ 48.90000	$ 9,780.00
3/3/2009	219	$ 47.47000	$ 10,395.93
3/3/2009	225	$ 50.41000	$ 11,342.25
3/3/2009	300	$ 47.53000	$ 14,259.00
3/3/2009	300	$ 47.55980	$ 14,267.94
3/3/2009	300	$ 47.62000	$ 14,286.00
3/3/2009	300	$ 50.57000	$ 15,171.00
3/3/2009	300	$ 50.59000	$ 15,177.00
3/3/2009	400	$ 47.49980	$ 18,999.92
3/3/2009	400	$ 47.63000	$ 19,052.00
3/3/2009	400	$ 47.63980	$ 19,055.92
3/3/2009	400	$ 49.02000	$ 19,608.00
3/3/2009	475	$ 48.83000	$ 23,194.25
3/3/2009	600	$ 47.61000	$ 28,566.00
3/3/2009	600	$ 47.64000	$ 28,584.00
3/3/2009	600	$ 47.65000	$ 28,590.00
3/3/2009	700	$ 47.66000	$ 33,362.00
3/3/2009	700	$ 48.97000	$ 34,279.00
3/3/2009	800	$ 50.47000	$ 40,376.00
3/3/2009	1,100	$ 50.48000	$ 55,528.00
3/3/2009	1,256	$ 50.49000	$ 63,415.44
3/3/2009	1,300	$ 50.54000	$ 65,702.00
3/3/2009	1,700	$ 50.42000	$ 85,714.00
3/3/2009	2,000	$ 50.45000	$ 100,900.00
3/3/2009	2,400	$ 50.53000	$ 121,272.00
3/3/2009	3,034	$ 48.86000	$ 148,241.24
3/3/2009	8,750	$ 47.67000	$ 417,112.50
3/4/2009	2,250	$ 57.34000	$ 129,015.00
3/4/2009	100	$ 57.40990	$ 5,740.99
3/4/2009	2,000	$ 57.39000	$ 114,780.00
3/4/2009	3,079	$ 57.40000	$ 176,734.60

3/3/2009	300	$ 49.71040	$ 14,913.12
3/3/2009	300	$ 49.71010	$ 14,913.03
3/3/2009	204	$ 51.23100	$ 10,451.12
3/3/2009	100	$ 49.77000	$ 4,977.00
3/3/2009	100	$ 49.84500	$ 4,984.50
3/3/2009	100	$ 49.73000	$ 4,973.00
3/4/2009	2,000	$ 59.46000	$ 118,920.00
3/4/2009	290	$ 59.45000	$ 17,240.50
3/4/2009	10	$ 59.41500	$ 594.15
3/4/2009	3,700	$ 59.44000	$ 219,928.00
3/4/2009	2,500	$ 59.46500	$ 148,662.50
3/4/2009	500	$ 59.58500	$ 29,792.50
3/4/2009	500	$ 59.42500	$ 29,712.50
3/4/2009	500	$ 59.43000	$ 29,715.00
3/4/2009	50	$ 59.67500	$ 2,983.75
3/4/2009	2,580	$ 59.66000	$ 153,922.80
3/4/2009	1,800	$ 59.72000	$ 107,496.00
3/4/2009	200	$ 59.66010	$ 11,932.02
3/4/2009	100	$ 59.66030	$ 5,966.03
3/4/2009	100	$ 59.66020	$ 5,966.02
3/16/2009	9,000	$ 59.03710	$ 531,333.90
3/16/2009	600	$ 58.51000	$ 35,106.00
3/16/2009	1,075	$ 59.00000	$ 63,425.00
3/16/2009	1,000	$ 59.01500	$ 59,015.00
3/16/2009	900	$ 53.36500	$ 48,028.50
3/16/2009	800	$ 58.58000	$ 46,864.00
3/16/2009	700	$ 58.60000	$ 41,020.00
3/16/2009	600	$ 58.83000	$ 35,298.00
3/16/2009	600	$ 58.55000	$ 35,130.00
3/16/2009	2,700	$ 58.53000	$ 158,031.00
3/16/2009	2,500	$ 58.56000	$ 146,400.00
3/16/2009	1,990	$ 58.57000	$ 116,554.30
3/16/2009	1,700	$ 58.96000	$ 100,232.00
3/16/2009	1,400	$ 58.99000	$ 82,586.00

Direxion Daily Financial Bear 3X Shares

3/4/2009	2,100	$ 57.41000	$ 120,561.00
3/4/2009	100	$ 57.42000	$ 5,742.00
3/4/2009	1,121	$ 57.43000	$ 64,379.03
3/4/2009	900	$ 57.47000	$ 51,723.00
3/4/2009	600	$ 57.50000	$ 34,500.00
3/4/2009	100	$ 57.39000	$ 5,739.00
3/4/2009	2,000	$ 57.76500	$ 115,530.00
3/4/2009	650	$ 57.79000	$ 37,563.50
3/4/2009	100	$ 57.40990	$ 5,740.99
3/4/2009	100	$ 57.42000	$ 5,742.00
3/4/2009	600	$ 57.50000	$ 34,500.00
3/4/2009	900	$ 57.47000	$ 51,723.00
3/4/2009	1,121	$ 57.43000	$ 64,379.03
3/4/2009	2,000	$ 57.39000	$ 114,780.00
3/4/2009	2,100	$ 57.41000	$ 120,561.00
3/4/2009	3,079	$ 57.40000	$ 176,734.60
3/4/2009	2,250	$ 57.34000	$ 129,015.00
3/13/2009	4,000	$ 61.43000	$ 245,720.00
3/13/2009	1,000	$ 60.99000	$ 60,990.00
3/13/2009	900	$ 60.87000	$ 54,783.00
3/13/2009	1,300	$ 60.85000	$ 79,105.00
3/13/2009	1,300	$ 60.91000	$ 79,183.00
3/13/2009	1,500	$ 60.90000	$ 91,350.00
3/13/2009	15,000	$ 61.50000	$ 922,500.00
3/13/2009	200	$ 60.77000	$ 12,154.00
3/13/2009	300	$ 60.84000	$ 18,252.00
3/13/2009	1,500	$ 60.80000	$ 91,200.00
3/13/2009	5,000	$ 61.50000	$ 307,500.00
3/16/2009	19,000	$ 53.90000	$ 1,024,100.00
3/16/2009	20	$ 53.90500	$ 1,078.10
3/16/2009	30	$ 53.74990	$ 1,612.50
3/16/2009	50	$ 53.79000	$ 2,689.50
3/16/2009	50	$ 54.42000	$ 2,721.00
3/16/2009	65	$ 54.36500	$ 3,533.73

3/16/2009	1,400	$ 58.97000	$ 82,558.00
3/16/2009	7,972	$ 58.49000	$ 466,282.28
3/16/2009	5,000	$ 59.63500	$ 298,175.00
3/16/2009	4,809	$ 58.95000	$ 283,490.55
3/16/2009	3,900	$ 58.36010	$ 227,604.39
3/16/2009	3,400	$ 58.98000	$ 200,532.00
3/16/2009	60	$ 58.74000	$ 3,524.40
3/16/2009	50	$ 58.71500	$ 2,935.75
3/16/2009	25	$ 58.65000	$ 1,466.25
3/16/2009	116	$ 59.03000	$ 6,847.48
3/16/2009	100	$ 59.02000	$ 5,902.00
3/16/2009	100	$ 58.81500	$ 5,881.50
3/16/2009	100	$ 58.72000	$ 5,872.00
3/16/2009	100	$ 58.59000	$ 5,859.00
3/16/2009	100	$ 58.57010	$ 5,857.01
3/16/2009	403	$ 58.50000	$ 23,575.50
3/16/2009	200	$ 58.54000	$ 11,708.00
3/16/2009	200	$ 58.52000	$ 11,704.00
3/16/2009	200	$ 58.48000	$ 11,696.00
3/16/2009	200	$ 58.36000	$ 11,672.00
3/16/2009	4,100	$ 58.33010	$ 239,153.41
3/16/2009	3,800	$ 58.98000	$ 224,124.00
3/16/2009	2,200	$ 58.47000	$ 128,634.00
3/16/2009	2,000	$ 58.52000	$ 117,040.00
3/16/2009	600	$ 59.00000	$ 35,400.00
3/16/2009	600	$ 58.33500	$ 35,001.00
3/16/2009	300	$ 58.99000	$ 17,697.00
3/16/2009	300	$ 58.49000	$ 17,547.00
3/16/2009	300	$ 58.33000	$ 17,499.00
3/16/2009	200	$ 59.18500	$ 11,837.00
3/16/2009	200	$ 58.51000	$ 11,702.00
3/16/2009	200	$ 58.48000	$ 11,696.00
3/16/2009	100	$ 59.01000	$ 5,901.00
3/16/2009	100	$ 58.53000	$ 5,853.00

Direxion Daily Financial Bear 3X Shares

3/16/2009	70	$ 53.88000	$ 3,771.60
3/16/2009	75	$ 54.37000	$ 4,077.75
3/16/2009	100	$ 53.86500	$ 5,386.50
3/16/2009	100	$ 53.88000	$ 5,388.00
3/16/2009	100	$ 54.08000	$ 5,408.00
3/16/2009	100	$ 54.31000	$ 5,431.00
3/16/2009	100	$ 54.45990	$ 5,445.99
3/16/2009	100	$ 56.56000	$ 5,656.00
3/16/2009	120	$ 53.87000	$ 6,464.40
3/16/2009	150	$ 53.81000	$ 8,071.50
3/16/2009	200	$ 53.84000	$ 10,768.00
3/16/2009	200	$ 54.01000	$ 10,802.00
3/16/2009	200	$ 54.12980	$ 10,825.96
3/16/2009	200	$ 54.14000	$ 10,828.00
3/16/2009	300	$ 53.97000	$ 16,191.00
3/16/2009	300	$ 54.44980	$ 16,334.94
3/16/2009	340	$ 53.90000	$ 18,326.00
3/16/2009	400	$ 53.75000	$ 21,500.00
3/16/2009	400	$ 53.82000	$ 21,528.00
3/16/2009	400	$ 54.45980	$ 21,783.92
3/16/2009	424	$ 53.85000	$ 22,832.40
3/16/2009	500	$ 54.15000	$ 27,075.00
3/16/2009	500	$ 54.43000	$ 27,215.00
3/16/2009	500	$ 54.44990	$ 27,224.95
3/16/2009	800	$ 54.03000	$ 43,224.00
3/16/2009	800	$ 54.07500	$ 43,260.00
3/16/2009	800	$ 56.58000	$ 45,264.00
3/16/2009	910	$ 54.45000	$ 49,549.50
3/16/2009	1,000	$ 53.73000	$ 53,730.00
3/16/2009	1,000	$ 54.13000	$ 54,130.00
3/16/2009	1,000	$ 54.28000	$ 54,280.00
3/16/2009	1,000	$ 54.46000	$ 54,460.00
3/16/2009	1,000	$ 56.59000	$ 56,590.00
3/16/2009	1,200	$ 54.11000	$ 64,932.00

3/26/2009	500	$ 28.50100	$ 14,250.50
3/26/2009	250	$ 28.61000	$ 7,152.50
3/26/2009	200	$ 25.58000	$ 5,116.00
3/26/2009	115	$ 28.69000	$ 3,299.35
3/26/2009	7,490	$ 28.50000	$ 213,465.00
3/26/2009	1,800	$ 28.53000	$ 51,354.00
3/26/2009	1,100	$ 28.52000	$ 31,372.00
3/26/2009	745	$ 28.55000	$ 21,269.75
3/26/2009	700	$ 28.58010	$ 20,006.07
3/26/2009	700	$ 28.56000	$ 19,992.00
4/13/2009	5,000	$ 10.85000	$ 54,250.00
4/13/2009	5,000	$ 10.81000	$ 54,050.00
4/28/2009	4,500	$ 9.03000	$ 40,635.00
4/28/2009	500	$ 8.85000	$ 4,425.00
4/28/2009	4,500	$ 9.03000	$ 40,635.00
4/28/2009	500	$ 8.85000	$ 4,425.00
5/7/2009	15,000	$ 4.66000	$ 69,900.00
5/13/2009	4,000	$ 5.84000	$ 23,360.00
5/19/2009	30,000	$ 6.32000	$ 189,600.00

Direxion Daily Financial Bear 3X Shares

3/16/2009	1,390	$ 53.97000	$	75,018.30
3/16/2009	1,400	$ 53.90000	$	75,460.00
3/16/2009	1,610	$ 54.10000	$	87,101.00
3/16/2009	2,000	$ 54.12000	$	108,240.00
3/16/2009	2,200	$ 53.76000	$	118,272.00
3/16/2009	2,515	$ 53.74000	$	135,156.10
3/16/2009	2,700	$ 53.80000	$	145,260.00
3/16/2009	3,120	$ 52.92000	$	165,110.40
3/16/2009	3,100	$ 56.60000	$	175,460.00
3/16/2009	4,150	$ 53.92500	$	223,788.75
3/16/2009	6,880	$ 52.93000	$	364,158.40
3/16/2009	8,855	$ 53.77000	$	476,133.35
3/16/2009	9,476	$ 53.89000	$	510,661.64
3/16/2009	10,000	$ 55.99000	$	559,900.00
3/16/2009	10,000	$ 56.11000	$	561,100.00
3/16/2009	15,000	$ 56.11000	$	841,650.00
3/16/2009	9	$ 55.44500	$	499.01
3/16/2009	20	$ 55.43000	$	1,108.60
3/16/2009	25	$ 55.67000	$	1,391.75
3/16/2009	30	$ 55.20010	$	1,656.00
3/16/2009	35	$ 53.50500	$	1,872.68
3/16/2009	50	$ 55.35500	$	2,767.75
3/16/2009	54	$ 55.66060	$	3,005.67
3/16/2009	100	$ 54.03000	$	5,403.00
3/16/2009	100	$ 54.17000	$	5,417.00
3/16/2009	100	$ 54.20000	$	5,420.00
3/16/2009	132	$ 55.11000	$	7,274.52
3/16/2009	150	$ 53.47000	$	8,020.50
3/16/2009	220	$ 54.25000	$	11,935.00
3/16/2009	274	$ 55.28000	$	15,146.72
3/16/2009	300	$ 54.08000	$	16,224.00
3/16/2009	300	$ 54.09000	$	16,227.00
3/16/2009	300	$ 54.29000	$	16,287.00
3/16/2009	315	$ 55.39500	$	17,449.43

Direxion Daily Financial Bear 3X Shares

3/16/2009	400	$ 53.49000	$	21,396.00
3/16/2009	400	$ 54.44000	$	21,776.00
3/16/2009	500	$ 54.28500	$	27,142.50
3/16/2009	491	$ 55.99000	$	27,491.09
3/16/2009	600	$ 53.46500	$	32,079.00
3/16/2009	600	$ 54.28000	$	32,568.00
3/16/2009	600	$ 55.08000	$	33,048.00
3/16/2009	800	$ 54.27000	$	43,416.00
3/16/2009	1,000	$ 53.44000	$	53,440.00
3/16/2009	1,000	$ 53.47500	$	53,475.00
3/16/2009	1,000	$ 54.10000	$	54,100.00
3/16/2009	1,000	$ 54.21000	$	54,210.00
3/16/2009	1,000	$ 54.27500	$	54,275.00
3/16/2009	1,200	$ 54.12500	$	64,950.00
3/16/2009	1,550	$ 54.24000	$	84,072.00
3/16/2009	1,600	$ 54.35000	$	86,960.00
3/16/2009	1,700	$ 54.14000	$	92,038.00
3/16/2009	1,815	$ 53.48000	$	97,066.20
3/16/2009	1,930	$ 54.26000	$	104,721.80
3/16/2009	2,000	$ 54.19000	$	108,380.00
3/16/2009	2,100	$ 54.10000	$	113,610.00
3/16/2009	2,200	$ 54.11000	$	119,042.00
3/16/2009	3,000	$ 55.07500	$	165,225.00
3/16/2009	10,000	$ 56.11000	$	561,100.00
3/17/2009	3,000	$ 53.27000	$	159,810.00
3/17/2009	5,000	$ 45.16000	$	225,800.00
3/17/2009	4,000	$ 42.77000	$	171,080.00
3/17/2009	100	$ 44.38000	$	4,438.00
3/17/2009	100	$ 44.42000	$	4,442.00
3/17/2009	100	$ 53.00950	$	5,300.95
3/17/2009	124	$ 53.40000	$	6,621.60
3/17/2009	150	$ 53.60000	$	8,040.00
3/17/2009	200	$ 44.44000	$	8,888.00
3/17/2009	200	$ 53.04000	$	10,608.00

Direxion Daily Financial Bear 3X Shares

3/17/2009	200	$ 53.25000	$	10,650.00
3/17/2009	200	$ 53.58000	$	10,716.00
3/17/2009	230	$ 53.04500	$	12,200.35
3/17/2009	300	$ 53.02000	$	15,906.00
3/17/2009	300	$ 53.07000	$	15,921.00
3/17/2009	300	$ 53.09000	$	15,927.00
3/17/2009	400	$ 44.39000	$	17,756.00
3/17/2009	500	$ 44.61000	$	22,305.00
3/17/2009	500	$ 53.00990	$	26,504.95
3/17/2009	800	$ 44.47000	$	35,576.00
3/17/2009	750	$ 53.53000	$	40,147.50
3/17/2009	1,200	$ 44.46000	$	53,352.00
3/17/2009	6,700	$ 44.48000	$	298,016.00
3/17/2009	6,646	$ 53.01000	$	352,304.46
3/18/2009	3,000	$ 39.26000	$	117,780.00
3/19/2009	100	$ 37.39500	$	3,739.50
3/19/2009	140	$ 37.23000	$	5,212.20
3/19/2009	175	$ 37.37000	$	6,539.75
3/19/2009	300	$ 37.34000	$	11,202.00
3/19/2009	360	$ 37.20000	$	13,392.00
3/19/2009	500	$ 37.21000	$	18,605.00
3/19/2009	550	$ 37.32000	$	20,526.00
3/19/2009	556	$ 37.27000	$	20,722.12
3/19/2009	900	$ 37.25000	$	33,525.00
3/19/2009	1,236	$ 37.31000	$	46,115.16
3/19/2009	1,500	$ 37.35000	$	56,025.00
3/19/2009	3,683	$ 37.30000	$	137,375.90
3/26/2009	15,000	$ 27.05000	$	405,750.00
3/30/2009	5,000	$ 22.99000	$	114,950.00
4/6/2009	200	$ 20.64000	$	4,128.00
4/6/2009	4,020	$ 20.61500	$	82,872.30
4/6/2009	5,150	$ 20.62500	$	106,218.75
4/6/2009	5,630	$ 20.63000	$	116,146.90
5/1/2009	200	$ 48.22980	$	9,645.96

Direxion Daily Financial Bear 3X Shares

5/1/2009	500	$ 48.23000	$	24,115.00
5/1/2009	4,300	$ 48.22990	$	207,388.57

CERTIFICATION OF PROPOSED LEAD PLAINTIFF

I, David Remmells, hereby certify as follows:

1. I am fully authorized to enter into and execute this Certification. I have reviewed the complaint prepared against the Direxion Funds, referenced in Exhibit A attached hereto, alleging violations of the federal securities laws and I authorized the filing of this complaint;

2. I did not purchase the Direxion Funds at the direction of counsel or in order to participate in any private action under the federal securities laws;

3. I am willing to serve as a lead plaintiff in this matter, including providing testimony at deposition and trial, if necessary;

4. I have transactions in the Direxion Funds during the class period as reflected in Exhibit A hereto;

5. I have not sought to serve as a lead plaintiff in any class action under the federal securities laws during the last three years, except for the following: none

6. Beyond my pro rata share of any recovery, I will not accept payment for serving as a lead plaintiff on behalf of the class, except the reimbursement of such reasonable costs and expenses (including lost wages) as ordered or approved by the Court.

I declare under penalty of perjury, under the laws of the United States, that the foregoing is true and correct.

Executed this 11th day of November, 2009.

David Remmells

David Remmells

DAVID REMMELLS
FAZ TRANSACTION SUMMARY

DATE	DESCRIPTION	QUANTITY	SYMBOL	PRICE	COMMISSION	AMOUNT	SALES FEE
3/17/2009	Bought 1300 FAZ @ 36.87	1300	FAZ	36.87	9.99	-47,940.99	
3/17/2009	Bought 729 FAZ @ 36.86	729	FAZ	36.86	0	-26,870.94	
3/17/2009	Bought 1000 FAZ @ 36.8603	1000	FAZ	36.8603	0	-36,860.30	
3/17/2009	Bought 2300 FAZ @ 36.85	2300	FAZ	36.85	0	-84,755.00	
3/17/2009	Bought 100 FAZ @ 36.98	100	FAZ	36.98	0	-3,698.00	
3/17/2009	Bought 400 FAZ @ 36.95	400	FAZ	36.95	0	-14,780.00	
3/17/2009	Bought 200 FAZ @ 36.9524	200	FAZ	36.9524	0	-7,390.48	
3/17/2009	Bought 671 FAZ @ 36.9498	671	FAZ	36.9498	0	-24,793.32	
7/9/2009	MANDATORY REVERSE SPLIT (25459W607)	6700				0.00	
7/9/2009	MANDATORY REVERSE SPLIT (FAZ)	670	FAZ			0.00	
9/25/2009	Sold 670 FAZ @ 22.2301	670	FAZ	22.2301	9.99	14,883.79	0.39
	LOSS					-232,205.24	

ERY

PLAINTIFF'S CERTIFICATION

Howard Schwack ("Plaintiff") declares under penalty of perjury, as to the claims asserted under the federal securities laws, that:

1. Plaintiff has reviewed the complaint and authorized the commencement of an action on Plaintiff's behalf.

2. Plaintiff did not purchase the security that is the subject of this action at the direction of plaintiff's counsel or in order to participate in this private action.

3. Plaintiff is willing to serve as a representative party on behalf of the class, including providing testimony at deposition and trial, if necessary.

4. Plaintiff's transactions in Direxion Energy Bear [ERY] securities during the Class Period specified in the Complaint are as follows:

Date	# of Shares Purchased	# of Shares Sold	Price

SEE ATTACHED

5. During the three years prior to the date of this Certificate, Plaintiff has not sought to serve or served as a representative party for a class in an action filed under the federal securities laws. [Or, Plaintiff has served as a class representative in the action(s) listed below:]

6. Plaintiff will not accept any payment for serving as a representative party on behalf of the class beyond the Plaintiff's pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the class as ordered or approved by the court.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 13th day of January 2010.

Signature

ERY Chart

Date Puchased	# Shares	Price	Date Sold	# Shares	Price
4/1/2009	150	$39.18	4/2/2009	150	$31.70
4/1/2009	150	$39.18			

#567345

BGZ

CERTIFICATION OF PROPOSED LEAD PLAINTIFF

I, Michael Salach, hereby certify as follows:

1. I am fully authorized to enter into and execute this Certification. I have reviewed the complaint prepared against the Direxion Funds, referenced in Exhibit A attached hereto, alleging violations of the federal securities laws and I authorized the filing of this complaint;

2. I did not purchase the Direxion Funds at the direction of counsel or in order to participate in any private action under the federal securities laws;

3. I have transactions in the Direxion Funds during the class period as reflected in Exhibit A hereto;

4. I have not sought to serve as a lead plaintiff in any class action under the federal securities laws during the last three years;

5. Beyond my pro rata share of any recovery, I will not accept payment for serving as a lead plaintiff on behalf of the class, except the reimbursement of such reasonable costs and expenses (including lost wages) as ordered or approved by the Court.

I declare under penalty of perjury, under the laws of the United States, that the foregoing is true and correct.

Executed this 22 day of November 2010.

Michael Salach
Michael Salach

Exhibit A

Schedule of Transactions

Michael Salach

3/13/2009	BGZ	Buy	500	78.85	-39425
3/13/2009	BGZ	Buy	300	79.28	-23784
1/29/2010	BGZ	Sell	500	18.68	9340
		Holding	300	10.37	3111
					-50758

Exhibit 2

Fund	Ticker	Index	Ticker
Financial Bear 3X Shares	FAZ	Russell 1000® Financial Services Index	RGUSFL
Energy Bear 3X Shares	ERY	Russell 1000® Energy Index	RGUSEL
Large Cap Bear 3X Shares	BGZ	Russell 1000® Index	RIY
Small Cap Bear 3X Shares	TZA	Russell 2000® Index	RTY

THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re DIREXION SHARES ETF TRUST

MASTER FILE No. 09-cv-08011(RJH)

DECLARATION OF SERVICE

Gustavo Bruckner, Esq., an attorney admitted to practice law before the courts of the State of New York, hereby declares that on November 23, 2010, I caused a true and correct copy of *Plaintiffs' First Consolidated Amended Class Action Complaint,* to be served via first class and electronic mail on all counsel in the above-captioned action.

/s/ Gustavo Bruckner
Gustavo Bruckner